Vol. I

TRANSCRIPT OF RECORD

[redacted]PREME COURT OF THE UNITED STATES

[redacted]OCTOBER TERM, [redacted]

No. [redacted]4[redacted] [redacted]24

[redacted]ER LUMBER COMPANY, LIMITED, GOULD MANUFAC-
[redacted]URING COMPANY, THE R. McMILLEN COMPANY, ET
[redacted]., APPELLANTS,

vs.

[redacted]RIDGE H. NEAL, INDIVIDUALLY AND AS SECRETARY
[redacted]AND TREASURER OF THE JOINT DISTRICT COUNCIL
[redacted]OF NEW YORK AND VICINITY OF THE UNITED BROTH-
[redacted]ERHOOD OF CARPENTERS AND JOINERS OF AMERICA
[redacted]AND AMALGAMATED SOCIETY OF CARPENTERS AND
[redacted]JOINERS OF AMERICA, ET AL.

[redacted]M THE UNITED STATES CIRCUIT COURT OF APPEALS FOR
THE SECOND CIRCUIT.

[redacted]FILED MARCH, 1924.

[redacted](24,316)

(24,216)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 1065.

PAINE LUMBER COMPANY, LIMITED, GOULD MANUFACTURING COMPANY, THE R. McMILLEN COMPANY, ET AL., APPELLANTS,

vs.

ELBRIDGE H. NEAL, INDIVIDUALLY AND AS SECRETARY AND TREASURER OF THE JOINT DISTRICT COUNCIL OF NEW YORK AND VICINITY OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA AND AMALGAMATED SOCIETY OF CARPENTERS AND JOINERS OF AMERICA, ET AL.

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Subpoena.

(L. S.) THE PRESIDENT OF THE UNITED STATES OF AMERICA, TO:

Elbridge H. Neal, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America: Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Charles Peterson, Lawrence Storey, Conrad C. Swenson, individually and as business agents of said Joint District Council of New York and Vicinity; Charles H. Bausher, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Harry L. Cook, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Frank Duffy, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, and William D. Huber, individually and as President of said United Brotherhood of Carpenters and Joiners of America; Murray & Hill Company, Harlem River Lumber & Wood-Working Company, Empire City-Gerard Company, David W. O'Neil, James C. Forbes, C. F. Bond Company, Bottsford Dickinson Company, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company, Inc.,

James Elgar, Inc., Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Gross & Herman, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., Jones Construction Company, C. W. Klappert's Sons, Inc., Lewis Harding & Company, James MacArthur Company, George Mulligan Company, F. T. Nesbit & Company, Inc., John H. Parker Company, E. E. Paul Company, Pottier & Stymus Company, S. M. Randall & Son, Inc., Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., W. E. Smith, Inc., John Thatcher & Son, Inc., Thompson-Starrett Company, Tidewater Building Company, Tucker & Vinton, Inc., Turner Construction Company, Wakeham & Miller, Inc., Richard L. Walsh Company, Watt & Sinclair, Inc., Whitney, Steen Company, Charles T. Wills, Inc., William Young Company, George A. Fuller Company, Roebling Construction Company, J. C. Vreeland Building Company, The Norcross Brothers Company, Schweizer & West Manufacturing Company, John H. Adamson, Samuel Aginsky, Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, Hyman Berman, James J. Bradley, Rufus H. Brown, John H. Carl, Richard H. Casey, Charles Cowen, John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Edwin Outwater, Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isidore Rosenfeld, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter E. Thompson,

Joseph Wagner, Louis Wiener, J. Odell Whitenack, Jacob A. Zimmerman; Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Mark Eidlitz & Son, Morris Frank and William Frank, co-partners, doing business under the firm name of Frank & Frank, Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's Sons, Samuel H. E. Jennings and Thomas A. Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-partners, doing business under the firm name of Leopold Kantor & Company, Julius R. Miller and Louis Walter, co-partners, doing business under the firm name of Miller & Walter, William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, Timothy I. O'Connell, Jr., and William J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, Harris Passloff and Nathan Strom, co-partners, doing business under the trade name of Passloff & Strom, Thomas F. Rae, doing business under the trade name of Thomas Rae & Son, Hyman Rappaport and Benjamin Bessner, co-

10 Subpoena.

partners, doing business under the firm name of Rappaport & Bessner, Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, Patrick Walsh and James G. Taylor, co-partners, doing business under the firm name of P. Walsh Company, Morris Wolfinger and Max Lasberg, co-partners, doing business under the firm name of Wolfinger & Lasberg, Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, Daniel P. Christie and Andrew Christie, co-partners, doing business
11 under the firm name of D. & A. Christie,

GREETING:

YOU ARE HEREBY COMMANDED that you and each of you personally appear before the Judges of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, in Equity, on the first Monday of May, 1911, wherever the said Court shall then be, to answer a bill of complaint exhibited against you in the said Court by PAINE LUMBER COMPANY, LIMITED, GOULD MANUFACTURING COMPANY, THE R. McMILLEN COMPANY, MORGAN COMPANY, LOTH-
12 MAN CYPRESS CO., CURTIS & YALE COMPANY, W. D. CROOKS & SONS, and BRISTOL DOOR & LUMBER COMPANY, and do further and receive what the said Court shall have considered in that behalf. And this you are not to omit under the penalty on you and each of you of TWO HUNDRED AND FIFTY DOLLARS.

Witness, the Honorable Edward J. White, Chief Justice of the United States, at the Borough of Manhattan, in the City of New York, on the 4th day of March, in the year of our Lord, one thousand nine hundred and eleven and of the Indepen-

Subpoena. 13

dence of the United States of America the one hundred and thirty-fifth.

JOHN A. SHIELDS,
Clerk.

WALTER GORDON MERRITT,
Solicitor for Complainants.

The defendants are required to enter appearance in the above cause, in the Clerk's Office of this Court, on or before the first Monday of May, 1911, or the bill will be taken *pro confesso* against them. 14

J. A. S.
Clerk.

15

16 **Complaint.**

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIMITED, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company,

Plaintiffs,

17 AGAINST

ELBRIDGE H. NEAL, individually and as Secretary and Treasurer of the Joint District Council of New York and vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Charles Peterson, Lawrence Storey, Conrad C. Swenson, individually and as business agents of said Joint District Council of New York and vicinity; Charles H. Bausher, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brother-

In Equity.

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hood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Harry L. Cook, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Frank Duffy, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, and William D. Huber, individually and as President of said United Brotherhood of Carpenters and Joiners of America; Murray & Hill Company, Harlem River Lumber & Wood-working Company, Empire City-Gerard Company, David W. O'Neil, James C. Forbes, C. F. Bond Company, Bottsford Dickinson Company, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company, Inc., James Elgar, Inc., Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Gross & Herman, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., Jones Construction Company, C. W. Klappert's Sons, Inc., Lewis Harding & Company, James MacArthur Company, George Mulligan Company, F. T. Nesbit & Company, Inc., John H. Parker Company, E. E. Paul Company,

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Pottier & Stymus Company, S. M. Randall & Son, Inc., Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., W. E. Smith, Inc., John Thatcher & Son, Inc., Thompson-Starrett Company, Tidewater Building Company, Tucker & Vinton, Inc., Turner Construction Company, Wakeham & Miller, Inc., Richard L. Walsh Company, Watt & Sinclair,
23 Inc., Whitney, Steen Company, Charles T. Wills, Inc., William Young Company, George A. Fuller Company, Roebling Construction Company, J. C. Vreeland Building Company, The Norcross Brothers Company, Schweizer & West Manufacturing Company, John H. Adamson, Samuel Aginsky, Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, Hyman Berman, James J. Bradley, Rufus H. Brown, John H. Carl, Richard H. Casey, Charles Cowen,
24 John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Edwin Outwater, Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isi-

dore Rosenfeld, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter E. Thompson, Joseph Wagner, Louis Weiner, J. Odell Whitenack, Jacob A. Zimmerman, Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Mark Eidlitz & Son, Morris Frank and William Frank, co-partners, doing business under the firm name of Frank & Frank, Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's Sons, Samuel H. E. Jennings and Thomas A. Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-partners, doing

23 Complaint.

business under the firm name of Leopold Kantor & Company, Julius R. Miller & Louis Walter, co-partners, doing business under the firm name of Miller & Walter, William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, Timothy I. O'Connell, Jr., and William J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, Harris Pass-
29 loff, and Nathan Strom, co-partners, doing business under the trade name of Passloff & Strom, Thomas F. Rae, doing business under the trade name of Thomas Rae & Son, Hyman Rappaport and Benjamin Bessner, co-partners, doing business under the firm name of Rappaport & Bessner, Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, Patrick Walsh and James G. Taylor, co-partners, doing business under the firm name of P. Walsh
30 Company, Morris Wolfinger and Max Lasberg, co-partners, doing business under the firm name of Wolfinger & Lasberg, Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, Daniel P. Christie and Andrew Christie, co-partners, doing business under the firm name of D. & A. Christie,

Defendants.

Complaint. 31

To the Honorable Judges of the Circuit Court of the United States, for the Southern District of New York:

Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, all corporations duly organized and existing under and by virtue of the laws of the State of Wisconsin, and citizens of the State of Wisconsin, having their principal offices and doing business in the city of Oshkosh, in the said State of Wisconsin; Lothman Cypress Co., a corporation duly organized and existing under and by virtue 32
of the laws of the State of Missouri and a citizen of the State of Missouri, having its principal office and doing business in the city of Oshkosh in the State of Wisconsin; Curtis & Yale Company, a corporation duly organized and existing under and by virtue of the laws of the State of Iowa, and a citizen of the State of Iowa, having its principal office and doing business in the city of Wausau, in the said State of Wisconsin; W. D. Crooks & Sons, a corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania and a citizen of the State of Pennsylvania, having its principal office and 33
doing business in the city of Williamsport, in said State of Pennsylvania; Bristol Door & Lumber Company, a corporation duly organized and existing under and by virtue of the laws of the State of Virginia, and a citizen of the State of Virginia, having its principal office and doing business in the town of Bristol, in the said State of Virginia, BRING THIS, their bill of complaint against Elbridge H. Neal, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brother-

34 Complaint.

hood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Charles Peterson, Lawrence Storey, Conrad C. Swenson, individually and as business agents of said Joint District Council of New York and Vicinity; Charles H. Bausher, individually and as
35 business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Harry L. Cook, individually, and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, all citizens, residents and inhabitants of said State of New York; Frank Duffy, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, and William D. Hu-
36 ber, individually and as President of said United Brotherhood of Carpenters and Joiners of America, both citizens, residents and inhabitants of the State of Indiana; Murray & Hill Company, Harlem River Lumber & Woodworking Company, Empire City-Gerard Company, David W. O'Neil, James C. Forbes, C. F. Bond Company, Bottsford-Dickinson Company, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company, Inc., James Elgar, Inc., Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Gross & Herman,

Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., Jones Construction Company, C. W. Klappert's Sons, Inc., Lewis Harding & Company, James MacArthur Company, George Mulligan Company, F. T. Nesbit & Company, Inc., John H. Parker Company, E. E. Paul Company, Pottier & Stymus Company, S. M. Randall & Son, Inc., Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., W. E. Smith, Inc., John Thatcher & Son, Inc., Thompson-Starrett Company, Tidewater Building Company, Tucker & Vinton, Inc., 38
Turner Construction Company, Wakeham & Miller, Inc., Richard L. Walsh Company, Watt & Sinclair, Inc., Whitney, Steen Company, Charles T. Wills, Inc., and William Young Company, all citizens, residents and inhabitants of said State of New York; George A. Fuller Company, Roebling Construction Company, and J. C. Vreeland Building Company, all citizens, residents and inhabitants of the State of New Jersey; The Norcross Brothers Company, a citizen, resident and inhabitant of the State of Massachusetts; Schweizer & West Manufacturing Company, a citizen, resident and inhabitant of the State of Illinois; John H. Adamson, Samuel Aginzky, 39
Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, Hyman Berman, James J. Bradley, Rufus H. Brown, John H. Carl, Richard H. Casey, Charles Cowen, John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jerns, David Krause, John H. MacDonald, Ranald H. McDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Edwin Outwater,

Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isidore Rosenfeld, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter E. Thompson, Joseph Wagner, Louis Weiner, J. Odell Whitenack, and Jacob A. Zimmerman, all citizens, residents and inhabitants of the State of New York; Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, citizens, residents and inhabitants of the State of New York; Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, citizens, residents and inhabitants of the State of New York; Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, the said Joseph A. Duffy being a citizen, resident and inhabitant of the State of New Jersey, and the said Francis Collin being a citizen, resident and inhabitant of the State of New York; Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Mark Eidlitz & Son, citizens, residents and inhabitants of the State of New York; Morris Frank and William Frank, co-partners, doing business under the firm name of Frank & Frank, citizens, residents and inhabitants of the State of New York; Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, a citizen, resident and inhabitant of the State of New York; Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, citizens, residents and inhabitants of the State of New York; James S. Herrman, doing business under the trade name of Philip Herrman's Sons, a citizen, resident and inhabitant of the State of New York; Samuel H. E. Jennings and Thomas A. Welstead, co-part-

ners, doing business under the firm name of Jennings & Welstead, the said Samuel H. E. Jennings being a citizen, resident and inhabitant of the State of Connecticut, and the said Thomas A. Welstead being a citizen, resident and inhabitant of the State of New York; James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, citizens, residents and inhabitants of the State of New York; Leopold Kantor and Joseph B. Cooper, co-partners, doing business under the firm name of Leopold Kantor & Company, citizens, residents and inhabitants of the State of New York; Julius 44
R. Miller and Louis Walter, co-partners, doing business under the firm name of Miller & Walter, citizens, resident and inhabitants of the State of New York; William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, citizens, residents and inhabitants of the State of New York; Timothy I. O'Connell, Jr., and William J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, citizens, residents and inhabitants of the State of New York; Harris Passloff & Nathan Strom, co-partners, doing business under the firm name of Passloff & Strom, citizens, residents and inhabitants of the State of 45
New York; Thomas F. Rae, doing business under the trade name of Thomas Rae & Son, a citizen, resident and inhabitant of the State of New York; Hyman Rappaport and Benjamin Bessner, co-partners, doing business under the firm name of Rappaport & Bessner, citizens, residents and inhabitants of the State of New York; Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, citizens, residents and inhabitants of the State of New York; Patrick Walsh and James G.

Taylor, co-partners, doing business under the firm name of P. Walsh Company, citizens, residents and inhabitants of the State of New York; Morris Wolfinger and Max Lasberg, co-partners, doing business under the firm name of Wolfinger & Lasberg, citizens, residents and inhabitants of the State of New York; Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, citizens, residents and inhabitants of the State of New Jersey; Daniel P. Christie and Andrew Christie, co-partners, doing business under the firm name of D. &
47 A. Christie, citizens, residents and inhabitants of the State of New Jersey. And, thereupon your orators complain and show:

1. Your orators, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company and Morgan Company, are, and at all the times mentioned in the bill of complaint, were, each and every one of them, corporations duly organized and existing under and pursuant to the laws of the State of Wisconsin, and citizens and residents of the State of Wisconsin, and each and every one of them own and operate, and during all the times mentioned
48 in this bill of complaint have owned and operated, a large woodworking mill situated in the city of Oshkosh, in the State of Wisconsin, adapted and devoted to the manufacture of doors, sashes, frames and other wood trim, and each and every one of said orators have invested in their respective factories or woodworking mills, and in the machinery, tools and materials used in connection therewith, over one hundred thousand dollars ($100,000), and employ, and have for many years past employed, over one hundred men who are skilled carpenters and woodworkers.

2. Your orator, Lothman Cypress Co., is, and at all times mentioned in this bill of complaint was, a corporation duly organized and existing under and pursuant to the laws of the State of Missouri, and a citizen and resident of the State of Missouri, and owns and operates, and during all the times mentioned in this bill of complaint has owned and operated, a large woodworking mill situated in the City of Oshkosh, in the State of Missouri, adapted and devoted to the manufacture of doors, sashes, frames and other wood trim and your said orator has invested in the said factory or woodworking mill, and in the machinery, tools and 50
materials used in connection therewith, over one hundred thousand dollars ($100,000) and employs, and has for many years past employed, over one hundred men who are skilled carpenters and woodworkers.

3. Your orator, Curtis & Yale Company, is, and at all the times mentioned in this bill of complaint was, a corporation duly organized and existing under and pursuant to the laws of the State of Iowa, and a citizen and resident of the State of Iowa, and owns and operates, and during all the times mentioned in this bill of complaint has owned and operated a large woodworking mill situated in 51
the town of Wausau, in the State of Wisconsin, adapted and devoted to the manufacture of doors, sashes, frames and other wood trim, and your said orator has invested in said factory or woodworking ing mill, and in the machinery, tools and materials used in connection therewith, over one hundred thousand dollars ($100,000) and employs, and has for years past employed, over one hundred men who are skilled carpenters and woodworkers.

4. Your orator, W. D. Crooks & Sons, is, and

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at all times mentioned in this bill of complaint was, a corporation duly organized and existing under and pursuant to the laws of the State of Pennsylvania, and a citizen and resident of the State of Pennsylvania, and owns and operates, and during all the times mentioned in this bill of complaint has owned ond operated a large woodworking mill situated in the City of Williamsport, in the State of Pennsylvania, adapted and devoted to the manufacture of doors, and other wood trim, and your said orator has invested in said factory or woodworking mill, and in the machinery,
53 tools and materials used in connection therewith, over one hundred thousand dollars ($100,000), and employs, and has for many years past employed, about one hundred men who are skilled carpenters and woodworkers.

5. Your orator, Bristol Door & Lumber Company, is, and at all the times mentioned in this bill of complaint was, a corporation duly organized and existing under and pursuant to the laws of the State of Virginia, and a citizen and resident of the State of Virginia, and owns and operates, and during all the times mentioned in this bill of complaint has owned and operated, a large wood-
54 working mill situated in the City of Bristol, in the State of Virginia, adapted and devoted to the manufacture of doors, sashes, frames and other wood trim, and your said orator has invested in said factory or woodworking mill, and in the machinery, tools and materials used in connection therewith, over one hundred thousand dollars ($100,000), and employs, and has for many years past employed, over one hundred men who are skilled carpenters and woodworkers.

6. That the products of the factories or mills of

55

each and every one of your orators are well and favorably known to architects, builders, contractors and others in different states of the United States, and each and every one of your orators have for many years past annually secured orders, from states other than the states where their respective factories are located, for many times five thousand dollars of merchandise to be manufactured or produced at their respective factories, and in order for each and every one of your orators to successfully and profitably operate their respective factories and mills, and maintain their present offices and selling organizations, it is necessary that 56
they annually secure and fill orders through interstate trade from customers in states other than the states where their respective factories are located for many times five thousand dollars annually of merchandise manufactured or to be manufactured at their respective mills, and that each and every one of them should have the usual fair and natural opportunities of securing said orders and customers and conducting said interstate commerce without interference, obstruction or molestation against them or their customers.

7. That each and every one of your orators em- 57
ploy one or more carpenters who do not belong to the United Brotherhood, hereinafter mentioned and described, or any of its subordinate unions, and are on that account described and characterized by the defendants as operating unfair, non-union or open shops or mills, as hereinafter set forth.

8. That the products or merchandise produced and manufactured by each and every one of your orators are of such a character as require the services of skilled carpenters to work upon and install them in the localities and buildings for

58 which they are purchased, and that it is necessary, for the protection of your orators' interstate trade, that the customers purchasing said products or merchandise for use and installation in states other than the state of their manufacture, should employ skilled carpenters in the places where said merchandise is to be installed, without serious or substantial interference with or obstruction of or discrimination against said customers and their building operations by any combination of skilled carpenters or others on account of the purchase of said materials from your orators or any of them.

59 9. That the city of Greater New York and Vicinity, with its numerous and extensive building operations, affords a large and valuable market for the sale, use and installation of such merchandise as is manufactured and produced by each and every one of your orators at their respective factories in other states and through the medium of interstate commerce and the interstate transportation facilities furnished by common carriers throughout the length and breadth of the United States is, except for the wrongful combination hereinafter described, available for the sale, use and installation of products manufactured and produced
60 by each and every one of your orators, and each and every one of your orators have from time to time previous hereto, supplied doors, sashes and other kinds of wood trim from their respective factories in large quantities for use and installation in the city of New York upon orders obtained by them or their agents in the city of New York and elsewhere and accepted and filled by said orators at their factories in states other than the State of New York, or have been prevented from supplying or selling such merchandise for sale, use and installation in the city of New York and Vicinity by this

wrongful combination of the defendants hereinafter set forth, and that each and every one of your orators is prepared and equipped through interstate commerce to reach and in part supply, and is desirous of reaching and in part supplying, said market in the city of New York, with merchandise produced and manufactured by them at their respective factories in states other than the state of New York, and the wrongful acts hereinafter set forth which prevent, obstruct and interfere with your orators in the sale of their said merchandise for sale, delivery, use or installation in the city of Greater New York and Vicinity, constitute a direct 62
and special injury to your said orators so prevented, obstructed or interfered with, and an interference with the right of each of said orators so prevented and obstructed which exceeds in value to each of your orators respectively the sum of five thousand dollars exclusive of interest and costs.

10. Your orators are informed and believe, and therefore allege, that the United Brotherhood of Carpenters and Joiners of America and Almagamated Society of Carpenters and Joiners of America (hereinafter called "United Brotherhood") is, 63
and at all times hereinafter mentioned was, an unincorporated association of workingmen existing under a constitution and laws adopted by a referendum vote of all its members hereinafter described, with its principle offices in the city of Indianapolis, in the state of Indiana, and having affiliated with it over 1900 local unions or unincorporated associations of workingmen chartered by said United Brotherhood, and many district councils or representative bodies composed of delegates from local unions in a particular locality, and said district councils and local unions affiliated with said United Brotherhood are scattered throughout different

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states and territories of the United States and elsewhere and that the officers and General Executive Board of said Brotherhood have the power to employ and compensate business agents or organizers to deal with labor difficulties and strikes affecting any of its said subordinate unions and to call a strike of all the members of said United Brotherhood and any and all of its local unions and district councils wherever situated in any and every part of the United States, to defend and support any local union or district council affiliated therewith in any labor controversy in any locality what-
65 soever.

11. That each and every one of said local unions and district councils affiliated with said United Brotherhood is authorized by said Brotherhood to adopt a constitution, rules and by-laws approved by said United Brotherhood and not inconsistent with the terms and provisions of the constitution, rules and by-laws of said United Brotherhood, and the membership of said district councils and local unions is and at all times hereinafter mentioned was composed of workingmen whose trade is wood working and carpentry and each member of any of said local unions so affiliated is and at all times herein-
66 after mentioned has been, by virtue of his membership in said local union, a member of the United Brotherhood and the respective district council, if any, in said locality, and subject to the constitution, by-laws and regulations of said United Brotherhood, district council and local union, and entitled to vote for all amendments to said constitution and laws of said Brotherhood and his respective district council and local union and for delegates to the conventions of said United Brotherhood, and for the general officers of said United Brotherhood and for the agents, officers and delegates of his said

district council, and your orators are informed and believe, and therefore allege, that there are and have been for a long time past approximately 200,000 members of the said United Brotherhood in the different states and territories of the United States, and that all of the members of said local unions are and have been obliged to pay dues to their respective local unions which in turn pays, and has paid, a part thereof on account of each respective member, to said Brotherhood, and that every carpenter who does not pay dues to a local union which makes the stipulated payments to said United Brotherhood, is liable to suspension 68
or expulsion from membership in said Brotherhood and the discrimination or boycott levied against the employment and handiwork of all non-members as hereinafter set forth, and that no person who has been expelled or suspended for non-payment of dues, fines or misdemeanors or rejected in any local union of said Brotherhood shall be eligible to membership in any other of its local unions except by the consent of said local union of which he was formerly a member, or by which he was rejected, and a two-thirds vote of the said union to which he so makes application, and no person whatsoever shall become a member of said United Brotherhood
or any of its district councils or local unions except he shall be elected by a majority vote at a meeting of the local union to which he makes application. That all carpenters who are not members of said United Brotherhood or one of its subordinate branches are known as non-union carpenters. 69

12. That said combination of persons collectively known as the United Brotherhood, as your orators are informed and believe, owns, controls, edits, publishes and issues monthly a paper styled, "The Carpenter," in which are published reports of many

of the acts of the officers, organizers, agents and general executive boards of said United Brotherhood, and which affords and is used as a ready, convenient, powerful and effective vehicle for the dissemination of information to its members and the public as to the persons, manufacturing woodworkers or carpenters, like each and every one of your orators, who are characterized as hostile or unfair to said United Brotherhood, and whose products are not to be purchased, dealt in, handled or worked upon by members of said United Brotherhood, and whose products are not to be purchased
71 by architects, builders, contractors or others under penalty of not being able to employ members of said United Brotherhood, and incurring strikes in connection with their building operations.

13. That the said combination or association of persons collectively known as the United Brotherhood, owns and controls the use and application of a certain label or distinguishing mark which it styles the "Union Label of the United Brotherhood of Carpenters and Joiners of America," and which may be used only upon such woodwork as is produced by manufacturers who employ members of said United Brotherhood exclusively at the work
72 of carpentry, as your orators are informed and believe, and said label as used by said combination affords it and its affiliated associations and the members thereof a ready, convenient and effective instrument and means of boycotting and preventing the use, installation or sale of merchandise made or furnished by each or any of your orators and others who do not or may not use said union label, and preventing the use of materials furnished or made by your orators and each of them and others not using said union label, and preventing members of said United Brotherhood and

the numerous local unions and district councils affiliated therewith from handling or working upon said materials.

14. That your orators are informed and believe that over seventy of said local carpenters' unions affiliated with said United Brotherhood are within the limits of the city of Greater New York and the Boroughs of Manhattan, Brooklyn, Bronx, Queens and Richmond, and said locals have, with certain branches of the Amalgamated Society of the Carpenters and Joiners of America, which is a part of said United Brotherhood, formed an additional association or representative body pursuant to the constitution, rules and regulations of the United Brotherhood, which is known as the Joint District Council of New York and vicinity, and said Council is composed of delegates from said local unions and branches within said five boroughs and the city of Greater New York, and elected by the members thereof. 74

15. That said Joint District Council has power under the rules and regulations of the United Brotherhood and subject to the constitution of said United Brotherhood, to adopt rules and regulations concerning strikes and the conditions of employment under which the members of the local unions affiliated with it shall work, and said Joint District Council has adopted a constitution and by-laws approved by said United Brotherhood and by a majority of the members of the various local unions represented in said council. 75

16. That the rules and by-laws so adopted by said Joint District Council adopt the said union label of the said United Brotherhood and provide for business agents of said council to be elected by

the members of the local unions represented in said council, with power to call strikes and enforce payment of fines by members, and said business agents have been so elected and empowered, and said by-laws also provide that any member of any of the local unions represented in said council shall be fined ten dollars if he uses or, in other words, works upon, the product of any person, firm or mill which has been declared unfair by the Joint District Council, and some of the business agents acting under the rules of said Council, are expressly appointed to deal with matters relating to shops and unfair trim, or, in other words, to deal with the subject of refusing to work upon materials, like those produced by each of your orators which are not made in factories that employ members of the United Brotherhood exclusively at the work of carpentry.

17. That your orators are informed and believe and therefore allege that defendant William D. Huber is, and has been at all times during many years past, President of said United Brotherhood, and that defendant Frank Duffy is, and has been at all times during may years past, Secretary of said United Brotherhood and editor of the official periodical issued monthly by said United Brotherhood and called "The Carpenter." That defendant Elbridge H. Neal is, and has been for over a year past, Treasurer of the Joint District Council of New York and Vicinity, and that defendants, Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Charles Peterson, Lawrence Storey, and Conrad

C. Swenson, are, and have been for some time past, business agents of said Joint District Council of New York and Vicinity, and that defendant Charles H. Bausher is, and has been since on or before the first day of March, 1910, a business agent of said Joint District Council of New York and Vicinity, and a member of the General Executive Board of said United Brotherhood, and that defendant Harry L. Cook is, and has been for over a year past, an organizer of the said United Brotherhood.

18. That your orators have been and still are, 80
unable to ascertain the names of all of the members of said District Council and the names or numbers of the various local unions affiliated with said District Council of New York City and Vicinity, or the officers or members thereof, and that under the rules prescribed by the United Brotherhood of Carpenters and Joiners of America for all local unions affiliated therewith, every officer and member of a local union is forbidden under a penalty of a fine of not less than ten dollars ($10) or expulsion from the said unions, or both, to furnish a list of the members of said local unions to any person outside of the said United Brotherhood of Carpenters and Joiners of America, and the 81
greatest secrecy is observed in the conduct of the affairs of said unions, and your orators further allege that even if they could ascertain the names of all of the members of said District Council and the names of the officers and members of said local unions, which they cannot do, that the members of the said District Council and the officers and members of the local unions represented in said District Council of New York City and Vicinity, would be so numerous as to make it impracticable for your orators to name them all as defendants

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herein, and that a trial of the issues in this case between your orators and the above named defendants will insure a fair trial of the issues in behalf of all, and that the various local unions affiliated with the District Council of New York and Vicinity do not as local associations act directly in connection with the matters herein of which your orators complain, but that said local unions and the members thereof have delegated to the District Council of New York and Vicinity and the business agents and officers of said Council the performance of the acts of which your orators
83 complain, and said local unions pay moneys to said Council whereby said business agents are employed and said acts are performed, and the members of said local unions vote for and elect the members of said District Council and the business agents thereof, and said business agents and the members of said District Council are duly authorized to, and do, represent and act for the members of the aforesaid numerous local unions as to the matters of which your orators complain. Your orators have therefore sued the above named representatives of such voluntary associations as representing the officers and members of the various local unions represented in said District Council,
84 and the other members of said District Council, and your orators pray that whatever relief may be granted herein may be had against any such members of such associations and officers thereof as though they were parties to this suit and present and defending this, your orators' bill of complaint.

19. That defendants C. F. Bond Company, Bottsford-Dickinson Company, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company, Inc., James Elgar, Inc.,

Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Gross & Herman, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., Jones Construction Company, C. W. Klappert's Sons, Inc., Lewis Harding & Company, James MacArthur Company, George Mulligan Company, F. T. Nesbit & Company, Inc., John H. Parker Company, E. E. Paul Company, Pottier & Stymus Company, S. M. Randall & Son, Inc., Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., W. E. Smith, Inc., John Thatcher & Son, Inc., Thompson-Starrett Company, Tidewater Building Company, Tucker & Vinton, Inc., Turner Construction Company, Wakeham & Miller, Inc., Richard L. Walsh Company, Watt & Sinclair, Inc., Whitney, Steen Company, Charles T. Wills, Inc., and William Young Company, are each and every one of them corporations organized and existing under and by virtue of the laws of the State of New York, and citizens of the State of New York; that defendants George A. Fuller Company, Roebling Construction Company and J. C. Vreeland Building Company, are each and every one of them corporations organized and existing under and by virtue of the laws of the State of New Jersey, and citizens thereof; that defendant, The Norcross Brothers Company is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, and a citizen thereof; that defendant Schweizer & West Manufacturing Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois, and a citizen thereof; that defendants Henry J. Brown and Abram H. Brown are co-partners, doing business under the firm name of Henry J. Brown & Son; that defendants, Max Davis and Philip Davis are co-partners

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doing business under the firm name of M. Davis & Son; defendants Joseph A. Duffy and Francis Collin are co-partners, doing business under the firm name of Duffy & Collin; defendants Otto M. Eidlitz and Robert J. Eidlitz are co-partners, doing business under the firm name of Mark Eidlitz & Son; defendants Morris Frank and William Frank are co-partners, doing business under the firm name of Frank & Frank; defendant Alexander H. Hamilton does business under the trade name of John L. Hamilton & Sons; defendants Elizabeth G. Hantsche and Emil G. Hantsche, Jr., are co-partners,
89 doing business under the firm name of E. G. Hantsche & Company; defendant James S. Herrman does business under the trade name of Philip Herrman's Sons; defendants Samuel H. E. Jennings and Thomas A. Welstead are co-partners, doing business under the firm name of Jennings & Welstead; defendants James F. Kerr and Kasmir Krenkel, are co-partners, doing business under the firm name of Kerr & Krenkel; defendants Leopold Kantor and Joseph B. Cooper, are co-partners, doing business under the firm name of Leopold Kantor & Company; defendants Julius R. Miller and Louis Walter, are co-partners, doing business under the firm name of Miller & Walter; defendants William
90 J. Moore and Alexander Moore, Jr., are co-partners, doing business under the firm name of Alexander Moore's Sons; defendants Timothy I. O'Connell, Jr., and William J. Hanna, are co-partners, doing business under the firm name of O'Connell & Hanna; defendants Harris Passloff and Nathan Strom, are co-partners, doing business under the firm name of Passloff & Strom; defendant Thomas F. Rae, does business under the trade name of Thomas Rae & Son; defendants Hyman Rappaport and Benjamin Bessner, are co-partners, doing business under the firm name of Rappaport & Bessner;

defendants Herbert S. Stoddard and William R. Hughes, are co-partners, doing business under the firm name of Stoddard & Hughes; defendants Patrick Walsh and James G. Taylor, are co-partners, doing business under the firm name of P. Walsh Company; defendants Morris Wolfinger and Max Lasberg, are co-partners, doing business under the firm name of Wolfinger & Lasberg; defendants Andrew H. Boyd and James Selfridge, are co-partners, doing business under the firm name of Boyd & Selfridge; and that defendants Daniel P. Christie and Andrew Christie, are co-partners, doing business under the firm name of D. & A. Christie. 92

20. That the defendants John H. Adamson, Samuel Aginsky, Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, Hyman Berman, James J. Bradley, Rufus H. Brown, John H. Carl, Richard H. Casey, Charles Cohen, John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Edwin Outwater, Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isidore Rosenfield, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter E. Thompson, Joseph Wagner, Louis Weiner, J. Odell Whitenack, Jacob A. Zimmerman, and all of the defendants mentioned and described in the last preceding paragraph of this complaint are hereinafter called "Contractors" and are each and every one of them master carpenters or builders engaged in the construction and erection of buildings in the city of New York and Vicinity, and requiring for the successful conduct of their 93

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business the acquisition, purchase and use of doors, sashes, frames and other kinds of wood trim such as is produced and manufactured by each and every one of your orators, and the services of skilled carpenter journeymen, such as belong to the United Brotherhood, to install and work upon the same, and that the right of each and every one of your orators to solicit and obtain, for acceptance at their factories in states other than the state of New York, orders from said contractors and others for merchandise manufactured and produced, or to be manufactured and produced, at their respec-
95 tive factories in states other than the state of New York, upon a basis of fair competition, is a valuable and substantial right, and each and every one of your orators has a direct and valuable interest in the freedom of each of said contractors and others who might be customers of your said orators or any of them, to choose and select without constraint, duress or other influence inconsistent with free competition, from which of your orators or others they or any of them shall purchase frames, doors, sashes and other kinds of wood trim such as is produced by your orators and each of them and required by said contractors and each of them and others in the ordinary prosecution of their respec-
96 tive businesses.

21. That said contractors, with a small number of other persons, firms or corporations whose names your orators have, after due diligence, been unable to ascertain, form and compose the entire membership of an unincorporated association or combination of persons styled the "Master Carpenters' Association of the City of New York," originally organized prior to any date set forth in this complaint, and admitting to membership under its constitution and laws only such persons,

firms or corporations as are engaged in said work of the erection and construction of buildings as employing carpenters, and require for the conduct of their business the purchase and use of such materials as are produced and manufactured by each of your orators, and the services of skilled carpenters to install the same; and that said association has its principal offices in the said city of New York and is authorized and empowered by the terms of its constitution and by-laws to deal with and determine, and enter into agreements relating to, the conditions and terms of employment of all carpenters employed by any of its members. 98

22. That on or before the 3rd day of July, 1903, and at all times thereafter, the said Master Carpenters' Association of the city of New York and each and every one of the defendant Contrators during membership therein were, and still are, members of a larger combination or unincorporated association of employers entitled, "Building Trades Employers' Association," and including in its membership over thirty different employers' associations each, composed of employers engaged in some branch or part of the business of the erection and construction of buildings in the city of Greater New York and Vicinity, and that each and 99 every member of each and every one of said numerous employers' associations so affiliated is also a member of "Building Trades Employers' Association," and that said Master Carpenters' Association of the City of New York and most, if not all, of the employers' associations so affiliated with said larger combination or association are directly and officially represented in the management and control of said "Building Trades Employers' Association," according to the express terms of its constitution and by-laws, and that said Building

100 Trades Employers' Association, being duly authorized thereunto on behalf of each and every one of its members and said associations affiliated therewith, did, on or before the 22nd day of April, 1905, enter into a so-called Joint Arbitration Plan with the unions representing the different craftsmen or workingmen employed or required by each and every one of its members in the conduct of their respective building operations, a copy of which Joint Arbitration Plan is attached hereto marked Exhibit "A," and hereby made a part hereof. That, among other things, said Joint Ar-
101 bitration Plan provided that employers, parties to said arbitration plan, agree to employ only members of their respective trade unions, directly or indirectly, through sub-contractors or otherwise, on all work within the territory known as the City of Greater New York, and said arbitration plan further provided that when the conditions established by the arbitration plan were not maintained in any shop or any job by employers or employees, the said arbitration plan should no longer apply to said building or job, and that one of the objects of said provision was to permit the respective unions, parties thereto, to engage in sympathetic strikes to support the demands of any union of any one trade
102 in said shop or job, and that the principal object of said Joint Arbitration Plan was to prevent and avoid such sympathetic strikes on buildings where said plan applied. That said arbitration plan continued in existence up to and including the first day of January, 1910, and was discontinued shortly thereafter and that the defendant contractors, composing the Master Carpenters' Association of New York City, were parties thereto as part of said Building Trades Employers' Association, and were only permitted to remain parties thereto and enjoy such protection against sympathetic strikes as

aforesaid upon the conditions therein stated, that they would employ members of the United Brotherhood exclusively at the work of carpentry. 103

23. That defendants Empire City Gerard Co., Harlem River Lumber & Woodworking Co., Murray & Hill Co., and James C. Forbes, hereinafter called "Defendant Manufacturers," are each and every one of them competitors of each and every one of your orators and engaged in the manufacture and production of doors, sashes and wood trim in the City of New York and vicinity, and each of said defendant manufacturers are members of an unincorporated association of employers called the "Manufacturing Woodworkers Association of New York and Vicinity," and said Association and each of its members are and for a long time past have been members of the aforesaid Building Trades Employers' Association, and were parties to the Joint Arbitration Plan, Exhibit A, during its existence as aforesaid. 104

That said Empire City Gerard Company, and Harlem River Lumber and Woodworking Co., and Murray & Hill Company, are each of them corporations organized under the laws of the State of New York, and residents and citizens thereof and have their principal offices in the Southern District of New York. 105

24. That all of the defendants herein are residents, citizens and inhabitants of different states from the states of the residence and citizenship of each and every one of the complainants herein, and none of the complainants operates any woodworking mills or factories in the state of New York, and that the amount in controversy in this action for each and every one of your orators exceeds five thousand dollars ($5,000) exclusive of interest and costs.

25. That, excepting the "Contractors," all of the defendants, the United Brotherhood, and all of the local unions affiliated with said Brotherhood, and the officers and members of said United Brotherhood, local unions and district councils (either individually or through agents or co-conspirators duly authorized thereunto), and other persons to your orators unknown, have for many years past been engaged in an oppressive and malicious scheme or conspiracy to prevent the pursuit or exercise of the trade of carpentry by any person in any state of the United States who is not a member of said
107 United Brotherhood, and one of its subordinate bodies, and, contrary to the Laws of Congress of July 2, 1890, relating thereto, and the laws of the state of New York, to prevent and restrain each of your orators and all other employers of any carpenters not belonging to said Brotherhood, from engaging in interstate trade or commerce to sell or supply goods for sale, delivery, use and installation in the city of New York and Vicinity and elsewhere outside of the state of their manufacture, because they so employ one or more carpenters who are not members of said Brotherhood, and to thereby compel and coerce each of your orators and all other wood working mills and employing carpen-
08 ters or builders in the United States of America, by the injury so unlawfully inflicted on their respective businesses, to operate what is called a closed or union shop, and to discharge and refuse to employ any carpenter who is not a member of, and does not pay tribute to, and submit to the regulations and restrictions of, said United Brotherhood and some one of its local affiliated unions.

26. That in pursuance of and for the purpose of making effective and furthering the aforesaid oppressive combination and conspiracy to prevent

all journeymen in any state of the United States from earning a livelihood at the trade of carpentry who are not members of said United Brotherhood, and to restrain and prevent the conduct of interstate trade or business by all employers who employ any of said non-union journeymen carpenters, the aforesaid conspirators have (either personally or through agents authorized thereunto) agreed upon and done and are still doing many unlawful and oppressive acts. That among the many acts and means so agreed upon and employed to further said combination and conspiracy, your orators are informed and believe that the conspirators have agreed upon and employed and still are employing the following: 110

(a) The members of the United Brotherhood are, and for a long time past have been, confederated and combined together to impose a penalty of ten dollars ($10) upon any one of their 200,000 members who handles or works upon any materials produced or manufactured in any mill or factory, including your orators, that employs any carpenters who are not members of said Brotherhood, and have adopted, printed, and circulated as one of its rules or by-laws binding upon each and every one of its affiliated local unions and district councils the following: 111

> "It shall be the duty of all district councils and local unions to promote the use of trim and shop-made carpenter work bearing this label and, wherever possible, to prevent the members under their jurisdiction from encouraging the use of any unfair material by handling the same."

That any local union affiliated with said United Brotherhood is liable to suspension from said

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United Brotherhood for failing to observe said rule, and may not adopt any constitution, laws or rules inconsistent therewith. That said label referred to in said rule is the union label of the United Brotherhood, and that according to the rules of said Brotherhood said label cannot be used by any employer who does not employ members of the Brotherhood exclusively at the work of carpentry, except where special dispensation has been granted by the General President, upon application from the district council or local union, and that such dispensation has been rarely, if ever,
113 granted. That the so-called "unfair material" referred to in said rule is woodwork produced by each and every one of your orators' mills and other mills which employ any carpenters who are not members of said United Brotherhood.

(b) The Joint District Council of New York and Vicinity has adopted, printed and circulated a rule, approved by the United Brotherhood, which provides that any member of any of the local unions represented in said council shall be fined ten dollars ($10) if he uses or, in other words, works upon the product of any person, firm or mill which has been by the Joint District Council declared un-
114 fair, or if he works for said person, firm or mill, and that the products of the mills of each and every one of your orators have been and are so proscribed by said rule.

(c) Journeymen carpenters who are members of the said United Brotherhood have been and are threatened with the imposition of fines and loss of membership in said United Brotherhood and their local unions and district councils, if they work upon materials produced or manufactured by any of your orators and other persons who employ any carpenters who are not members of said United

Brotherhood, or work upon buildings where said materials were being used or about to be used, and that members of said United Brotherhood have been fined therefor. 115

(d) That there is, and has been during all the times herein mentioned, an agreement or understanding between the Carpenters' District Council of New York and Vicinity, and other unions in New York City, covering the various and numerous trades connected with the erection of buildings and employed by the various members of the Building Trades Employers' Association (such as 116
stone workers, steam fitters, electricians, masons, bricklayers and many others), wherein and whereby it is understood that the members of said numerous unions covering said numerous trades and others, will, upon the request of the proper authorities of the said United Brotherhood or said District Council, order a strike of any of its members upon any building where carpenters are employed who are not members of said United Brotherhood, or upon any building where trim or other kind of wood work made by your orators or others who do not operate a union or closed shop, is used or installed or about to be used or in-
stalled, and that in pursuance of said agreement 117
or understanding, many strikes of employees engaged in various other branches of the building trades besides that of carpentry have been threatened and called for no other reason than the desire of the respective unions calling said strikes to threaten and cause architects, builders, contractors and owners great loss and damage, and create a fear of disastrous labor disturbances, in order that they will not purchase, use or deal in any wood work made in the shops of any of your orators or

118 other shops that are not recognized by said Brotherhood as union or fair shops.

(e) They have instigated, incited and joined in strikes of journeymen carpenters and other classes of craftsmen or artizans working upon buildings in states other than any of the states where any of your said orators have their factories, because wood materials produced by certain of your orators and other so-called non-union manufacturers were being or about to be installed thereon, and against persons, firms or corporations that were under contract to purchase wood materials from certain of
119 your orators for use outside of the state of their manufacture and from other so-called non-union manufacturers, because they refused to repudiate their said contracts of purchase.

(f) That architects, builders, contractors and owners who, in the ordinary transaction of their business, require and are obliged to purchase materials of the kind and character produced by each and every one of your orators, have been and are compelled and coerced by fear and threats of strikes and labor troubles that might be caused by the defendants' conspiracy, and their inability to obtain the requisite skilled carpenters for the
120 completion of their building operations, on account of said conspiracy, to refuse to purchase or use any wood work made by any of your orators or any other mill or factory which employs any carpenter who is not a member of the said United Brotherhood, or which, in other words, is by said United Brotherhood declared unfair or non-union.

(g) That during the time when the aforesaid Joint Arbitration Plan (Exhibit "A") was in existence and operation, and the said defendant contractors were parties thereto upon condition that

they would employ members of said United Brotherhood exclusively at the work of carpentry, the United Brotherhood and Joint District Council of New York and Vicinity, and the officers and members thereof, refused to enter into any agreement with the aforesaid Master Carpenters' Association or any of its members including the defendant contractors for the employment of their services in the business of said defendant contractors, whereby said defendant contractors could avoid the uncertainties and ruinous delays arising from strikes in building operations by a definite agreement for a definite term of years and the arbitration 122
of all controversies, unless and until the Master Carpenters' Association and the said defendant contractors would embody and include in said proposed agreement some clause recognizing and agreeing to observe the rules of said United Brotherhood and District Council, enjoining the handling, use or installation of trim or wood work produced by each of your orators and other non-union manufacturers, and that during the said period of time, the said United Brotherhood and Joint District Council made it impossible for said defendant contractors to operate and work under and enjoy the benefits of the Joint Arbitration Plan adopted for and in their behalf by the aforesaid Building Trades 123
Employers' Association, and providing for the employment by each of them of members of said United Brotherhood exclusively at the work of carpentry, if they purchased or used, or attempted to purchase or use any trim or other wood work produced by your orators or any other so-called open shop or non-union manufacturer, by refusing to handle or work upon the same, and that said defendant contractors have thereby been compelled and coerced under threat and penalty of the loss and damage that would accrue to them if they were

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expelled from said Employers' Association and Joint Arbitration Plan and prevented from doing business, with any of the members of said Association, or upon any building where any members of said Association were doing work, because of their failure to comply with the terms of said Joint Arbitration Plan, and further, under the added threat and penalty of the loss and damage that would accrue to them from strikes upon buildings being or to be erected by them, unless they made an agreement with said United Brotherhood and Joint District Council upon terms acceptable to
125 said Brotherhood and District Council, to cause the said Master Carpenters' Association to enter into an agreement in writing in behalf of all its members on or about the 30th day of October, 1909, a copy of which is attached hereto marked Exhibit "B," and hereby made a part hereof, wherein and whereby said Association agrees in behalf of said defendant contractors and its other members, to adopt the terms of said arbitration agreement (Exhibit "A") forbidding the employment of non-union carpenters, and not to purchase or use in the city of New York and Vicinity any materials manufactured or produced by any of your orators or certain other manufacturers of wood work who
126 operate what is known as a non-union or open shop, and that said agreement in section 2 of Article IV thereof, and in the second paragraph of Article III is intended, regarded and interpreted by all parties thereto as a prohibition against the purchase and use of said non-union or open shop work by defendant contractors, and a recognition of the rule of said United Brotherhood forbidding its members working upon the same, and that said agreement by its terms provides that the Master Carpenters' Association of New York City and the Joint District Council of New York and Vicinity,

parties thereto, will use all lawful means within their power to compel obedience thereto on the part of each and every one of their respective members, and that said agreement shall continue until the 31st day of December, 1911.

(h) That on or about the 1st of January, 1910, the aforesaid Manufacturing Woodworkers' Association of New York and Vicinity being duly authorized thereunto, did on behalf of the defendant manufacturers and its other members enter into an agreement with the said United Brotherhood and the Joint District Council of New York and 128
Vicinity, of which Exhibit "C," attached hereto and hereby made a part hereof is a copy, wherein and whereby the said defendant manufacturers and others similarly situated, agree to employ at the work of carpentry only members of said United Brotherhood, in consideration of the promise and agreement of the said United Brotherhood and the said Joint District Council of New York and Vicinity and the members thereof, to interfere with the sale, use and installation of the products of their competitors, including each of your orators, who do not discriminate against and refuse to employ non-union carpenters, by refusing to handle
or work upon the same, and that said agreement 129
is still in operation and effect and other agreements of the same character have been entered into by other manufacturing woodworkers.

(i) They have placed upon unfair lists and circulars and distributed among architects, builders and contractors in the city of Greater New York and elsewhere, the names of employers who do not operate a closed shop or employ members of the United Brotherhood, and it is well understood among employers and workingmen engaged in the

130 building trades and in all lines of industry, that such unfair lists contain the names of those concerns who have incurred the hostility of organized labor and which cannot be patronized without incurring the hostility of organized labor and damage to and interference with the business of those who patronize the so-called unfair concern, and that the names of non-union concerns who do not employ union carpenters exclusively have been from time to time reported as unfair in the official periodical of the United Brotherhood, entitled "The Carpenter."

131 (j) That there has been prepared and circulated freely in different states of the United States, and particularly in the City of New York and Vicinity, among architects, builders and contractors and union men engaged in working upon buildings, printed lists of firms or corporations engaged in the manufacture of wood trim in the particular locality where such list is being circulated, and that said lists do not contain the names of any of your orators and do contain only the names of persons or corporations which agree to employ members of the United Brotherhood exclusively, and are preceded by a printed statement or communication
132 of the general character of the following:

"To owners, Architects, Contractors and Builders of New York City and Vicinity.
Gentlemen:

In order to avoid any labor trouble on jobs you are interested in, we deem it necessary to request you to stipulate in all your contracts a clause, guaranteeing the employment of recognized Union Men; also a clause requiring in the execution of all contracts for

Carpenter work, the employment of Union-made Trim, Mantels, Parquet-flooring, and other Shop-made Carpenter work. This applies particularly to all classes of Kalameined and Metal-covered work.

We desire to inform you, that unless this material has been constructed under strict Union conditions we shall refuse to handle it.

It being a well-known fact that the agents of unfair and non-union firms resort to misstatements in order to obtain contracts in this City, we recommend that before placing contracts with any firm not on this list, you communicate with this organization regarding the Union standing of said firm. 134

Stipulating in your contract that your trim, etc., must bear this Union Label:

(Here appears cut of Label).

will avoid all complications.

We respectfully call your attention to the following Firms, Manufacturers of Interior Woodwork, etc., who are working under an agreement with this District Council.

This list is, however, subject to revision monthly, and contracts let therefrom will only be protected, if let within the month for which the list is issued, or if stipulated as a condition of acceptance the above Union Label on the work. 135

Later lists can be obtained on application to

D. F. Featherston, Sec'y,
142-144 E. 59th St.
'Phone 2021 Plaza."

(k) That special agents or organizers have been employed by the officers of the United Brotherhood, with headquarters in the city of Indianapolis and

State of Indiana, with funds obtained from all the members of said United Brotherhood and despatched under the supervision and direction of said officers to various states in the Unitted States, including the city of New York and Vicinity, to assist the different affiliated unions and district councils in the enforcement of the rule of said United Brotherhood, enjoining its members from working upon or handling wood materials produced by any manufacturer, including each of your orators, who does not employ members of the United Brotherhood exclusively at the work of carpentry, and large sums of money so collected by said United Brotherhood have been wrongfully sent by said officers at Indianapolis to the city of New York and vicinity and other localities, to assist in enforcing said rule and preventing and restraining your orators and others transacting interstate commerce.

27. That on account of the aforesaid combination and consipiracy and the acts performed in furtherance thereof, and on account of said agreements not to purchase, erect or install wood materials produced by your orators and other so-called non-union or unfair manufacturers, many architects, builders, owners, contractors and others who desire to, and otherwise would, purchase the products of the mills of each and every one of your orators for use outside of the state of their manufacture, and place orders with each and every one of your orators therefor, are prevented, deterred and intimidated from so doing because of the fear that the defendants might cause a strike of carpenters and other trades to take place on the buildings where said materials were to be used, thereby causing great loss and damage to them or to the owner and builder thereof, and because of the fear

on the part of said architects, builders, contractors and owners in the city of New York and Vicinity and elsewhere outside of the states where your said orators respectively manufacture said materials, that if they purchase materials of your orators and others who are by said United Brotherhood declared to be non-union or unfair, they will be unable to obtain the requisite number of skilled carpenters to conduct and complte their respective building operations in the city of Greater New York and elsewhere, and members of said United Brotherhood will refuse to install, work upon or handle said non-union or open shop products. That each and 140
every one of your orators are directly and similarly injured and affected by the aforesaid combination and have their interstate commerce restrained, prevented, obstructed and interfered with to the great and continuing irreparable injury and damage of each of your orators in excess of five thousand dollars ($5,000) exclusive of interest and costs.

28. Your orators further show that by reason of the continuance of the aforesaid combination and consipiracy and the acts in furtherance thereof, and their consequential inability to obtain orders for merchandise to be manufactured at their re- 141
spective factories in states other than the state of New York, for the use and installation in the city of New York and Vicinity, and in other states outside of the states where they are manufactured by your respective orators, that each and every one of your orators are suffering a continuing injury, and each and every one of your orators severally allege that unless the defendants and those associated with them in said combination or conspiracy, are restrained by an injunction order of this court from doing the aforesaid acts and continuing said con-

spiracy and Sec. 2, Article IV, and the second paragraph of Article III of agreement Exhibit "B" are declared void, the defendants will continue to obstruct, molest, injure and interfere with your orators and each of them in the transaction of their lawful business and interstate trade, by preventing your orators and each of them from obtaining purchasers and orders for merchandise to be produced at their said factories for use and installation in the Boroughs of Manhattan, Brooklyn, Bronx, Queens, Richmond and vicinity, in the state of New York and elsewhere outside of the states
143 where your orators respectively manufacture, to the great and irreparable damage of each and every one of your orators in their respective business and property rights in excess of five thousand dollars ($5,000) exclusive of interest and costs, and that unless a temporary injunction and decree is issued out of this court pending a final hearing of this your orators' bill of complaint, each and every one of your orators will suffer a great and irreparable injury before said final hearing.

29. That it is also impracticable for your orators to secure adequate remedy at law against the aforesaid acts and conspiracy because it would be
144 necessary for your orators to bring a multiplicity of suits against the great number of persons engaged in said combination and conspiracy with the defendants impleaded herein, and that said suit would be a source of great vexation and expense to each and every one of your orators, and your orators have no adequate remedy at law for the additional reason that even if your orators were to prosecute actions at law against all who are engaged in said unlawful combination and conspiracy and could recover judgments against those engaged in carrying out the said conspiracy against

each and every one of your orators, as herein above set forth, such judgments would be valueless by reason of the fact that none of the defendants, as your orators are informed and believe, are solvent and able to answer any award of damages which might be obtained by your orators in a suit at law, and that an additional and insuperable obstacle to your orators obtaining adequate relief at law is the fact that the defendants and those engaged with them in the futherance of the aforesaid unlawful combination and conspiracy are so numerous and are to such an extent strangers and unknown to your orators, that it is impossible to follow and detect them in the commission of each of the aforesaid acts performed in the pursuance of their common design, and to ascertain by which persons any particular acts against your orators are committed, and that your orators could not obtain an adequate remedy at law for the additional reason that it is impossible for your orators to learn and prove in each instance just what contracts and orders have been withheld from them by architects, builders and contractors on account of the aforesaid combination and conspiracy and the fear entertained by the contractors, builders and architects of the defendants and their conspiracy, and because the injury and damage caused each and every one of your orators is continuous and irreparable and is incapable of estimate or definite proof in actions at law for damage.

30. That all of the aforesaid acts, doing and pretenses of the said defendants are contrary to equity and good conscience and tend to the manifest wrong, injury and oppression of your orators in the premises.

31. In consideration whereof, and forasmuch

as your orators are remediless in the premises by the strict rules of common law, and only relievable in a court of equity where matters of this nature are cognizable and relievable, your orators therefore pray the relief of this honorable Court:

1. That the defendants, ELBRIDGE H. NEAL, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; WALLACE
149 ANDERSON, HENRY W. BLUMENBERG, THOMAS DALTON, FREDERICK DIHY, JOHN T. DONOVAN, HENRY ERICKSON, DAVID FRENCH, MATTHEW C. HEINEN, ALEXANDER KELSO, GEORGE LYNCH, ALBERT W. LEEK, JAMES MARTIN, RICHARD MORTAN, AUGUST NAGEL, FRANK NORTON, WILLIAM O'GRADY, CHARLES PETERSON, LAWRENCE STOREY, CONRAD C. SWENSON, individually and as business agents of said Joint District Council of New York and Vicinity; CHARLES H. BAUSHER, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of
150 Carpenters and Joiners of America; HARRY L. COOK, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; FRANK DUFFY, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, and WILLIAM D. HUBER, individually and as President of said United Brotherhood of Carpenters and Joiners of America; MURRAY & HILL COMPANY, HARLEM RIVER LUMBER & WOOD-

WORKING COMPANY, EMPIRE CITY-GERARD COMPANY, DAVID W. O'NEIL, JAMES C. FORBES and their and each of their agents, servants, attorneys, confederates, and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are, restrained and enjoined from:

Combining, conspiring and confederating together to refuse to handle or work upon materials produced or manufactured by the complainants or any of them because they are not made under union conditions, and from publishing, circulating, enforcing and attempting to enforce the provisions of the by-laws of the District Council of New York and Vicinity, which provide as follows:

> "Any member proven guilty of using the product of any person, firm or mill who have been declared unfair by their District Council, or working for any person, firm or mill who have thus been declared unfair, shall be fined ten dollars for each offense."

And from publishing, circulating, enforcing and attempting to enforce that part of the by-laws of the United Brotherhood of Carpenters and Joiners of America which provides as follows:

> "It shall be the duty of all District Councils and local unions, wherever possible, to prevent the members under their jurisdiction from encouraging the use of any unfair material by handling the same."

And from enforcing or attempting to enforce or inflicting or threatening to inflict any injury, penalty or liability, where in the nature of a fine, or suspension or expulsion from any labor organization or otherwise, against any person who works upon materials furnished by any of your complainants, or against any person who works for any em-

154 ployer who purchases materials from any of your complainants, or against any person who works upon any building where the materials of any of your complainants are being installed or about to be installed.

From inducing or attempting to induce any person or persons whomsoever to decline employment or cease employment, or not to seek employment, under any person, firm or corporation, because such person, firm or corporation may have purchased or purposed to purchase materials from the complainants or any of them, or because the
155 materials furnished by the complainants or some of them were being used on or in connection with some building where said persons are doing work, and from in any way inducing or attempting to induce any person or persons to refuse to install, handle or work upon materials manufactured by your complainants or any of them.

And from making, communicating or circulating any statement, orally or in writing, that the defendants, or members of any union of workingmen, will refuse to work upon any materials, unless said materials are constructed under strict union conditions.

And from requesting customers, or those who
156 might become customers, of the complainants not to purchase the products of your orators or any of them, because they do not employ members of said United Brotherhood of Carpenters and Joiners of America exclusively at the work of carpentry, or do not use the union label of said United Brotherhood, and from requesting any persons who might be customers of the complainants, or any of them to buy union materials, so that no controversy or difficulty can arise on account of the use of non-union woodwork.

From giving notice, verbally or in writing, to

any person, firm or corporation, to refrain from purchasing merchandise or carrying out contracts for the purchase of merchandise manufactured by your complainants or any of them, under threats that if such merchandise is purchased, or said contracts carried out, they will cause the persons so notified loss or trouble, or that they will cause persons employed by such persons so notified to withdraw from their employment, or that they will cause persons employed by others upon buildings where said persons so notified are doing work, to withdraw from all work upon said buildings.

From publishing, circulating or otherwise communicating either directly or indirectly, in writing or orally, to each other, or to any other person, firm or corporation, any statement or notice of any kind or character whatsoever, calling attention to the fact that the complainants or any of them, or their products or any of them, are or were or have been declared unfair, or are on any unfair list, or that your complainants or any of them should not be patronized or dealt with or their products purchased, used, handled, worked upon or dealt in, because made in an open or non-union shop. 158

And from conspiring, agreeing or combining together to restrain or destroy the interstate business or trade of the complainants or any of them, in order to compel them to refuse to employ any carpenters who are not members of said United Brotherhood, and from doing any and all acts in futherance of said combination, and any and all acts to interfere with or discourage the sale or disposition of the products of the factories of the complainants or any of them, or the installation or handling thereof, for the purpose of compelling the complainants or any of them to refuse to employ any carpenters who are not members of said United Brotherhood. 159

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And from using any and all ways, means and methods of doing any of the aforesaid forbidden acts, and from doing any of the forbidden acts either directly or indirectly or through by-laws, orders, directions or suggestions to committees, associations, officers, agents or otherwise.

2. That Section 2 of Article IV and the second paragraph of Article III of said agreement (Exhibit "B"), entered into on or about the 30th day of October, 1909, between the Master Carpenters' Association of the city of New York, party of the first part, and the Joint District Council of Greater
161 New York, party of the second part, be declared void as imposing an unlawful restraint upon trade contrary to the laws of the state of New York in such case made and provided, and contrary to the laws of the United States relating to restraints of interstate commerce and as constituting a part of a wrongful combination or conspiracy to injure your orators.

3. And that the parties to said agreement Exhibit "B," their attorneys, agents and associates, be enjoined from carrying out or pursuing said Section 2 of Article IV, and the second paragraph of Article III of said agreement, so far as the
162 same forbid the purchase, use or installation or products manufactured by any of your orators, and inducing or persuading or attempting to induce or persuade any concern, firm or corporation to extend, renew, observe, carry out or comply with, the terms of said Section 2 of Article IV and paragraph 2 of Article III of said agreement, so far as the same prohibit the purchase, use or installation of non-union wood work by the members of the Master Carpenters' Associations, and provide for the refusal of the members of said District Council to work upon the same.

4. That until the further order of this court, a temporary injunction and decree for the relief herein prayed for be issued out of this Court, and that your orators may have such other and further relief in the premises as the nature and circumstances of this case may require, and as to this honorable Court may seem meet and proper, and that it please your Honors to grant unto your orators a writ of subpœna of the United States of America, issued out of and under the seal of this honorable Court and directed to the defendants ELBRIDGE H. NEAL, individually and as Secretary and Treasurer of the Joint District Council of 164
New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; WALLACE ANDERSON, HENRY W. BLUMENBERG, THOMAS DALTON, FREDERICK DIHY, JOHN T. DONOVAN, HENRY ERICKSON, DAVID FRENCH, MATTHEW C. HEINEN, ALEXANDER KELSO, GEORGE LYNCH, ALBERT W. LEEK, JAMES MARTIN, RICHARD MORTAN, AUGUST NAGEL, FRANK NORTON, WILLIAM O'GRADY, CHARLES PETERSON, LAWRENCE STOREY, CONRAD C. SWENSON, individually and as business agents of said Joint District Council of
New York and Vicinity; CHARLES H. BAUSHER, in- 165
dividually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; HARRY L. COOK, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; FRANK DUFFY, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated

Society of Carpenters and Joiners of America, and WILLIAM D. HUBER, individually and as President of said United Brotherhood of Carpenters and Joiners of America; MURRAY & HILL COMPANY, HARLEM RIVER LUMBER & WOOD-WORKING COMPANY, EMPIRE CITY-GERARD COMPANY, DAVID W. O'NEIL, JAMES C. FORBES, C. F. BOND COMPANY, BOTTSFORD DICKINSON COMPANY, ROBERT CHRISTIE & SON, INC., P. J. CARLIN CONSTRUCTION COMPANY, CHARLES A. COWEN & COMPANY, INC., JAMES ELGAR, INC., ELLISON CONSTRUCTION COMPANY, FOUNTAIN & CHOATE, INC., HUGH GETTY,
167 INC., GROSS & HERRMAN, INC., HEDDEN CONSTRUCTION COMPANY, GEORGE L. HILTL COMPANY, JAMES C. HOE'S SONS, INC., JONES CONSTRUCTION COMPANY, C. W. KLAPPERT'S SONS, INC., LEWIS HARDING & COMPANY, JAMES MACARTHUR COMPANY, GEORGE MULLIGAN COMPANY, F. T. NESBIT & COMPANY, INC., JOHN H. PARKER COMPANY, E. E. PAUL COMPANY, POTTIER & STYMUS COMPANY, S. M. RANDALL & SON, INC., ANDREW J. ROBINSON COMPANY, JOHN V. SCHAEFER, JR., & COMPANY, INC., SLOANE & MOLLER, INC., HOWARD J. SMITH & SON, INC., W. E. SMITH, INC., JOHN THATCHER & SON, INC., THOMPSON-STARRETT COMPANY, TIDEWATER BUILDING COMPANY, TUCKER & VINTON, INC., TURNER
168 CONSTRUCTION COMPANY, WAKEHAM & MILLER, INC., RICHARD L. WALSH COMPANY, WATT & SINCLAIR, INC., WHITNEY, STEEN COMPANY, CHARLES T. WILLS, INC., WILLIAM YOUNG COMPANY, GEORGE A. FULLER COMPANY, ROEBLING CONSTRUCTION COMPANY, J. C. VREELAND BUILDING COMPANY, THE NORCROSS BROTHERS COMPANY, SCHWEIZER & WEST MANUFACTURING COMPANY, JOHN H. ADAMSON, SAMUEL AGINSKY, HIRAM A. AKERLY, STEPHEN BALL, JACOB BALZ, ALFRED BEINHAUER, PAUL BENZENBERG, HYMAN BERMAN, JAMES J. BRADLEY, RUFUS H. BROWN, JOHN H. CARL, RICH-

ard H. Casey, Charles Cowen, John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Edwin Outwater, Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isidore Rosenfeld, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter E. Thompson, Joseph Wagner, Louis Wiener, J. Odell Whitenack, Jacob A. Zimmerman; Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Mark Eidlitz & Son, Morris Frank and William Frank, co-partners, doing business under the firm name of Frank & Frank, Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's Sons, Samuel H. E. Jennings and Thomas A. Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-part- 170 171

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ners, doing business under the firm name of Leopold Kantor & Company, JULIUS R. MILLER and LOUIS WALTER, co-partners, doing business under the firm name of Miller & Walter, WILLIAM J. MOORE and ALEXANDER MOORE, JR., co-partners, doing business under the firm name of Alexander Moore's Sons, TIMOTHY I. O'CONNELL, JR., and WILLIAM J. HANNA, co-partners, doing business under the firm name of O'Connell & Hanna, HARRIS PASSLOFF and NATHAN STROM, co-partners, doing business under the firm name of Passloff & Strom, THOMAS F. RAE, doing business under the
173 trade name of Thomas Rae & Son, HYMAN RAPPAPORT and BENJAMIN BESSNER, co-partners, doing business under the firm name of Rappaport & Bessner, HERBERT S. STODDARD and WILLIAM R. HUGHES, co-partners, doing business under the firm name of Stoddard & Hughes, PATRICK WALSH and JAMES G. TAYLOR, co-partners, doing business under the firm name of P. Walsh Company, MORRIS WOLFINGER and MAX LASBERG, co-partners, doing business under the firm name of Wolfinger & Lasberg, ANDREW H. BOYD and JAMES SELFRIDGE, co-partners, doing business under the firm name of Boyd & Selfridge, DANIEL P. CHRISTIE and ANDREW CHRISTIE, co-partners, doing business under
174 the firm name of D. & A. Christie, and thereby commanding them and each of them on a certain day to be named and under a certain penalty, to be and appear before this honorable Court, then and there to answer all and singular, but not under oath, which is hereby expressly waived, in regard to the premises, and to respond to, perform and abide by, such order, direction and decree as may be made against it or them, or any of them, in the premises, and as shall seem meet and agreeable to equity and good conscience.

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And your orator, as in duty bound, will ever pray, &c.

WALTER GORDON MERRITT,
Solicitor for Complainants,
Office & Post Office Address,
27 William Street,
Borough of Manhattan,
New York City, N. Y.

UNITED STATES OF AMERICA, } 176
State of Wisconsin, } ss.:
County of Winnebago, }

NATHAN PAINE, being duly sworn, says that he is Vice President of the Paine Lumber Company, Ltd., one of the complainants above named; that he has read the foregoing complaint, and that the same is true in each and every particular to the best of his knowledge, information and belief. The source of his knowledge, information and belief as to the allegations of said complaint are as follows:

1. As to paragraphs marked 1 to 6 inclusive, 177
the affidavits of each and every one of the complainants submitted herewith and personal knowledge concerning the Paine Lumber Company, Ltd.

2. The allegation of paragraph marked 7 that the products of each and every one of the orators are described as unfair and non-union, is supported by the affidavits filed herewith and by an examination of the constitution and by-laws of the United Brotherhood of Carpenters and its Joint District Council of New York and vicinity.

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and the various issues of the official publication of the United Brotherhood called "The Carpenter," and extracts from the Convention Proceedings of said United Brotherhood for 1904, 1906 and 1908.

3. The allegations of paragraph marked 8 of the complaint are based upon the affidavits submitted herewith and the knowledge and familiarity of your deponent with the kind of business conducted by the Paine Lumber Company, Ltd., and by each and every one of your orators and the requirements of said business.

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4. That the allegations of paragraph marked 9 concerning the city of New York are based upon a general knowledge concerning the building conditions in New York which your deponent has derived in connection with sales of deponent's company in the city of New York and his study of the conditions of the market in the city of New York, and his knowledge of the requirements of the business of his company and the business of each and every one of the orators similarly situated, and the affidavits of each and every one of the orators as to the conditions and requirements of their business.

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5. That the allegations of paragraphs marked 10 to 14 inclusive of the complaint herein are based upon the affidavits filed herewith and upon admissions in a sworn answer filed in the case of the Albro J. Newton Company against Henry Erickson, *et als.*, in the Supreme Court for the County of Kings, and the allegations and admissions in an answer sworn to by defendant Elbridge H. Neal on the 16th day of January, 1911, and filed in the case of Charles R. Irving, *et al.*, against the said Elbridge H. Neal, *et als.*, in the Circuit Court

of the United States for the Southern District of New York, together with an examination of the constitution, by-laws and rules of the United Brotherhood of Carpenters and certain numbers of the Carpenters' Journal, and extracts from the Convention Proceedings of said United Brotherhood for the years 1904, 1906 and 1908.

6. That the allegations of paragraphs marked 15 and 16 of the complaint herein are based upon an examination of the constitution and by-laws of said United Brotherhood of Carpenters and the by-laws of said Joint District Council of New York 182
and Vicinity, and the aforesaid answers in the cases of Newton against Erickson and Irving against Neal.

7. That the allegations of paragraphs marked 17 and 18 of the complaint herein are based upon the said verified answers in the cases of Newton against Erickson and Irving against Neal and the examination of certain numbers of "The Carpenter," and the constitution, by-laws and rules of the United Brotherhood, and the affidavits filed herewith and the general knowledge of your deponent of conditions prevailing among working-men and labor organizations. 183

8. That the allegations of paragraphs marked 19 and 20 of the complaint herein are based upon an examination of the affidavit of Sara A. V. Brown and of the printed list of the members of the Building Trades Employers' Association, which includes a list of concerns under the head of Master Carpenters' Association, and that the names of all of the said defendant contractors appear in said list, and your deponent knows many of said concerns of his own knowledge, and

the character of their business, and your deponent knows that every building contractor in said association requires the use of wood work such as is produced by your deponent's concern and the service of skilled carpenter journeymen in order to conduct their business, and your deponent knows that every one of said concerns are concerns who, in the ordinary course of business, would be solicited directly or indirectly as customers of each and every one of the orators, and that many of said concerns have from time to time in the past used merchandise produced by
185 your deponent's concern and other of your orators.

9. That the allegations of paragraph marked 21 of the complaint herein are based upon an examination of a printed pamphlet entitled "The Constitution and By-Laws of the Master Carpenters' Association of the City of New York," and the aforesaid membership list of said Asociation published in the printed list of members of the Building Trades Employers' Association as aforesaid, and his knowledge of the requirements of the business of each and every one of the orators.

186 10. That the allegations of paragraph marked 22 of the complaint herein are based upon an examination of the printed list of members of said Building Trades Employers' Association and a printed copy of the Joint Arbitration Plan attached thereto, of which Exhibit "A" is an exact copy, together with the printed Constitution of said Building Trades Employers' Association.

11. That the allegations of paragraph marked 23 of the complaint are based upon the affidavits submitted herewith and an examination of the said

list of members of the said Building Trades Employers' Association which, among other things, contains a list of the members of the so-called The Manufacturing Woodworkers' Association, and that each and every one of said defendant manufacturers' names appear in said list, and that your deponent is advised by his familiarity with the conditions of the trade in the city of New York, that each and every one of said concerns are competitors of his concern and of each and every one of your orators, and your deponent is personally acquainted with some of said concerns.

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12. That the allegations of paragraph marked 24 of the complainant herein are based upon the reading of the affidavits submitted herewith.

13. That the allegations of paragraph marked 25 of the complaint herein are based upon an examination of the affidavits submitted herewith, the Constitution and By-Laws of said United Brotherhood of Carpenters and its Joint District Council of New York and Vicinity, various issues of the official journal of said United Brotherhood called "The Carpenter," extracts from the printed Convention Proceedings of said United Brotherhood for the years 1904, 1906 and 1908, 189
various circulars and documents purporting to be issued by said United Brotherhood, the decision rendered in the case of the Huttig Sash & Door Co. *v.* Fuelle, reported in 143 Fed., 363, and the decision in the case of Lohse Patent Door Co. *v.* Fuelle, reported in 114 S. W., 997, and decided by the Supreme Court of the State of Missouri, both of which cases, as is disclosed by an examination of the records of said United Brotherhood, were against the combination of said United Brotherhood, and R. Fuelle, one of its organizers,

190 the printed record on appeal to the Circuit Court of Appeals for the Eighth Circuit in the case of Shine *v.* Fox Bros. Mfg. Co., 156 Fed., 357, the affidavits and decision in the case of Irving *v.* Neal, herein above mentioned and reported in 180 Fed., 896, the defense of which case is being conducted by the said United Brotherhood, and the decision in the case of A. V. Booth & Co. *v.* Burgess, reported in 65 Atl., 226, the defense of which case was also conducted by said United Brotherhood, the printed record on appeal in the case of S. G. Purvis & Company *v.* a Local Union of
191 said United Brotherhood, the defense of which case was conducted by said United Brotherhood, together with the decision in said case which is reported in 214 Pa. State, 348, and the affidavits in the case of Newton *v.* Erickson and the decision therein reported in the case of Newton *v.* Erickson, 126 Supp., 949, together with his personal knowledge of the effect of said combination upon the business of the Paine Lumber Co., Ltd.

14. The allegations of paragraph marked 26 are based upon an examination of all the records hereinabove set forth as being the basis of the allegations of paragraph marked 25 of the complaint,
192 and the sub-division of said paragraph marked 26, in addition to being supported by an examination of each and every one of the foregoing documents as hereinabove set forth, are supported more particularly as follows:

That the allegations of sub-division (a) are based upon the sworn admission of said Elbridge H. Neal in his answer in said case of Irving against Neal and verified the 16th day of January, 1911, wherein he expressly avers that the two hundred thousand members of said United Broth-

erhood are under a contract or agreement not to work upon the materials produced by any non-union or open shop factory under a penalty of Ten dollars, and an examination of the constitution of said United Brotherhood supports the allegation that it contains therein a clause against the use of unfair materials as set forth in said sub-division (a).

That the allegations of sub-division (b) are based on an examination of the by-laws of the Joint District Council of New York and Vicinity, which contains a clause in express terms forbid- 194
ding the members from working on unfair trim, under penalty of Ten dollars.

That the allegations of sub-division marked (c) are based upon the aforesaid rules and regulations forbidding members working upon non-union materials, and the admissions in said answers in the cases of Albro J. Newton Company against Ericksson, and Irving against Neal.

That the allegations of sub-division (d) are based upon information acquired by your deponent from the examination of the aforesaid papers herein, including extracts from minutes of the Building Trades Employers' Association, showing sym- 195
pathetic strikes of different trades as alleged and conversations with various people connected with the building trades, to the effect that if any contractor attempts to employ non-union men as a matter of necessity for the purpose of installing products manufactured by your orators and others, a strike would take place, supported by numerous other trades connected with the building trades; and the further information acquired by your deponent that said sympathetic strikes of different trades in the building industry have fre-

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quently taken place for said reasons. That the affidavits filed in the case of Charles R. Irving *et als.*, against Elbridge H. Neal, *et als.*, in this Circuit Court, also disclose the fact that said sympathetic strikes of different trades have been threatened and have taken place because of the use of non-union trim produced by the plaintiff therein. And your deponent is further informed of this fact by an examination of the 22d Annual Report of the Bureau of Mediation and Arbitration, published by the State Department of Labor, where it appears on page 377 thereof that the busi-
197 ness agent of the said United Brotherhood had, during the month of June, 1909, called out the working men connected with different trades on a particular building, because of the employment of non-union carpenters thereon. And your deponent is informed and believes that paragraph 31 of the Joint Arbitration Plan, Exhibit A, was intended to provide for cases where said Joint Arbitration Plan could be removed from a job or factory and the unions permitted to enter into a sympathetic strike of all trades in support of grievances of the carpenters or any other building trade, and your deponent is further informed that there have been frequent petitions by said
198 United Brotherhood during the life of said Joint Arbitration Plan to permit the removal of said plan and the institution of sympathetic strikes upon a building, and your deponent is informed and believes that one of the principal objects of said Joint Arbitration Plan was to avoid said sympathetic strikes, and that any person operating thereunder who employed any non-union men, as he would be obliged to do in order to install materials manufactured by any non-union woodworker, would have the protection of said Plan removed from his said job or factory and sympa-

thetic strikes thereon would take place; and your deponent is informed and believes that although the said Arbitration Plan has expired on January, 1910, the same arrangement between the various unions of the building trades whereby they would support each other on account of the employment of non-union men of any craft by a strike of all crafts, still exists, and that no contractor dares to employ any non-union carpenters to install materials produced and manufactured by your deponent's company or any of your orators for fear of said general strike of all crafts.

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That the allegations of sub-divisions (e) and (f) are based upon an examination of the affidavits filed herein, together with other papers and documents referred to and in support of paragraph marked 25 herein.

That the allegations of sub-division marked (g) are based upon the examination of a printed form of agreement entered into between the Master Carpenters' Association of the City of New York and the Joint District Council of New York and Vicinity bearing date the 30th day of October, 1909, and the conversations which deponent has held with his trade in the city of New York, recognizing the existence of said agreement; and that 201 the allegations of said sub-division alleging that said Master Carpenters were compelled to enter into said agreement, are based upon the self-evident fact that said Master Carpenters could have no desire to refrain from purchasing non-union materials simply because they were non-union, and your deponent has further examined extracts in the issues of "The Carpenter," wherein it is stated that the said Master Carpenters were endeavoring to obtain the right to use non-union or open shop trim and be released from said restric-

tion, and said allegations are supported by the further fact that said Master Carpenters refused for substantially two years to renew any agreement with said Joint District Council, because said Joint District Council insisted upon a clause in said agreement forbidding the use of non-union trim, and the Master Carpenters' desired to eliminate such restriction; and upon the further fact that the Joint District Council stated through its representatives at various meetings of the Executive Committee of the Arbitration Board of the Building Trades Employers' Association that
203 the Master Carpenters wanted to use open shop trim; and upon the further fact that the said United Brotherhood adopted said rule and policy of forbidding the use of non-union trim before the making of any such agreement with said Master Carpenters and thereby originated and imposed said restriction upon said Master Carpenters; and upon the further fact that said Master Carpenters, at the time of the making of said agreement, which was during the operation of said Joint Arbitration Plan, would have been excluded from said Joint Arbitration Plan if they had attempted to employ non-union carpenters, and that it was impossible for them to employ union carpenters and
204 install materials produced by your complainant's company, or any of the orators herein, and that said Master Carpenters were, therefore, obliged to refrain from purchasing non-union materials and enter into an agreement so to do in order to remain parties to said Joint Arbitration Plan, to which about a thousand members of the building trades in New York and Vicinity belong, and that said Master Carpenters could not have done business on the same buildings with any of said thousand members if they had not continued members of said Joint Arbitration Plan and refused to pur-

chase materials from your orators in order to be able to secure the services of members of the United Brotherhood of Carpenters who were parties to said Joint Arbitration Plan; and that said allegations of sub-division (g) are further based upon an examination of said Joint Arbitration Plan, Exhibit A.

That the allegations of sub-division (h) are based upon examination of a printed agreement between the Manufacturing Woodworkers' Association, of which each and every one of said defendant manufacturers are members, and the 206
Joint District Council of New York and Vicinity of the Carpenters and that Exhibit C is an exact copy of said agreement.

The allegations of sub-division (i) are based upon the affidavits filed herein and the affidavits and papers filed in the case of Irving against Neal, which show the circulation of an unfair list of concerns furnished by said Joint District Council of New York, and further upon an examination of various numbers of "The Carpenter" and the proceedings of the conventions of the United Brotherhood.

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That the allegations of sub-division (j) are based upon various printed lists of concerns of the same line of business as that in which your orators are engaged, and not containing the names of any of your orators, and preceded in each and every instance by a printed statement or communication of the same character as that set forth in sub-division (j); and that your deponent has examined a number of said publications and in each and every instance they purport to be issued by the Joint District Council of New York and Vicinity, and in the case of Shine *v.* Fox

208 Brothers hereinabove referred to, your deponent has discovered that in the testimony submitted in that case, statements in practically the same words, were issued in the City of St. Louis, thereby showing that said statements had a common origin, which your deponent believes to be the headquarters of said United Brotherhood in the City of Indianapolis in the State of Indiana, and the allegations of said sub-division (j) concerning the issuance of said circulars and lists of names were also based on an examination of the answers in the aforesaid cases of Irving *v.* Neal and New-
209 ton *v.* Erickson.

That the allegations of sub-division (k) are based upon the affidavits filed herein and an examination of various numbers of the Carpenters' Journal and Extracts from the convention proceedings of the United Brotherhood for the years 1904, 1906 and 1908.

The allegations of Paragraphs Twenty-seven to twenty-eight are based upon an examination of the affidavits filed herewith and the conversations which your deponent has had with various members of the building trades in the city of New York concerning the conditions prevailing there-
210 in.

The allegations of Paragraph marked Twenty-nine of the complaint herein are based upon all of the papers hereinbefore mentioned and the general knowledge on the part of your deponent of the conditions which surround the conduct of his business and the conditions of workingmen and their unions.

NATHAN PAINE.

Subscribed and sworn to before me
this 25th day of February, 1911.

CHARLES NEVITT,
Notary Public, Oshkosh,
Winnebago County, Wisconsin.
My Commission expires June 2, 1912.

(Copy.)

STATE OF WISCONSIN, COUNTY OF WINNEBAGO, } ss.:
Office of Clerk of Circuit Court,

I, JOHN H. LAABS, Clerk of Circuit Court of the 212
County of Winnebago, in the State of Wisconsin, the said Court being a court of record, and having a seal, do hereby certify that CHAS. NEVITT, Esquire, whose name appears subscribed to the annexed instrument, was at the date thereof a Notary Public within and for said State, residing in said County, duly appointed and qualified, and empowered by the laws of said State to administer oaths, take acknowledgments of deeds, and perform such other duties as by the law of nations, or according to commercial usage may be performed by Notaries Public, and 213
that to his acts and attestations, as
[SEAL] such, full faith and credit are and ought to be given in court and out. I further certify that I am well acquainted with his handwriting and that I verily believe said signature, purporting to be his, is genuine, that the seal thereto attached is a correct impression of his official seal; and that said instrument is executed and acknowledged acording to the laws of the state.

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Oshkosh, in said County and State on this 28th day of February, A. D., 1911.

JOHN H. LAABS,
Clerk of Circuit Court,
As Aforesaid.

Exhibit A.

215 JOINT ARBITRATION PLAN
Between the
BUILDING TRADES EMPLOYERS' ASSOCIATION
and the
UNIONS OF THE BUILDING TRADES OF THE CITY OF NEW YORK.

SECTION 1. This Arbitration Plan shall govern the relations between the members of the Building Trades Employers' Association and the Unions, parties to this Plan, employed by them on buildings or structures under construction or alteration, and in such shops as were unionized and recognized as union shops by the Building Trades
216 Employers' Association on or after July 3, 1903, and in the shops where trade agreements provide that this Plan shall govern; and it shall apply within all the territory known as Greater New York, unless otherwise specified in trade agreements. This plan applies to the mechanics of the trades and those helpers' organizations from which the mechanics of the trades are largely derived.

SEC. 2. The Unions as a whole or as a single Union shall not order any strike against a member of the Building Trades Employers' Asso-

tion, nor shall any number of Union men leave the works of a member of the Building Trades Employers' Association, nor shall any member of the Building Trades Employers' Association lock out his employees.

SEC. 3. The Employers parties to this Arbitration Plan agree to employ members of the trade unions only, directly or indirectly, through subcontractors or otherwise, on the work and within the territory as described in Section 1 of this Plan.

SEC. 4. There shall be a general Arbitration 218
Board, consisting of two representatives from each Employers' Association affiliated with the Building Trades Employers' Association and two representatives from each Union recognized as a party to this Plan.

SEC. 5. The General Arbitration Board shall exercise the powers delegated to it by the several provisions of this Plan; shall determine the manner of adjustment of any dispute which is not specifically covered by this Plan; shall adopt and amend a Code of Procedure; and shall determine the manner in which and by whom the expenses of Special Arbitration Boards shall be paid. 219

SEC. 6. Each Association of Employers and each Union of Employees, parties to this Plan of Arbitration, shall elect semi-annually, two arbitrators and two alternates, who shall serve for six months or until their successors are elected. In case of the inability of an arbitrator and his alternate to attend, an Association of Employers or a Union of Employees may appoint a temporary substitute. All representatives of Employers' Associations on the General Arbitration Board

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shall be engaged in, or officers of a corporation engaged in the trade they represent. All representatives of the Unions on the General Arbitration Board shall be working at their trade.

SEC. 7. Regular meetings of the General Arbitration Board shall be held once each month. Special meetings may be called by the Chairman or the Executive Committee, and shall be called upon the filing with the Secretary of a written request from five organizations represented in said Board.

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SEC. 8. At all meetings of the General Arbitration Board and the Executive Committee a majority vote shall carry any question, including the election of officers; except a member call for a division, when, in order to carry a question or to elect an officer, it shall require a majority vote of the representatives of each side present and voting. In the case of disagreement and inability of the body to agree upon a motion a conference committee shall be appointed, which shall report a motion or motions to the meeting.

SEC. 9. The Chairman and the Vice-Chairman of
222 the general Arbitration Board shall be elected semi-annually by and from the members of the General Arbitration Board, and shall hold office until their successors are elected. One of these officers shall be an employer and the other an employee.

SEC. 10. The General Secretary shall be elected by the General Arbitration Board for a term of one year and shall serve until his successor is elected.

SEC. 11. The cost of maintaining the headquart-

ers of the General Arbitration Board, including the salaries of the Secretary and his assistants, shall be divided equally between the Building Trades Employers' Association and the Unions collectively.

SEC. 12. The general arbitrators must be given power by the organizations they represent.

SEC. 13. The headquarters of the General Arbitration Board shall not be the meeting room nor the club room of any Association of Employers or Employees.

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SEC. 14. There shall be an Executive Commitee of the General Arbitration Board, which shall consist of twelve members of said Board, six of whom shall be elected by the representatives of the Unions in the General Aribtration Board, and six of whom shall be elected by the Employers' representatives in the General Arbitration Board.

SEC. 15. The Executive Committee shall exercise the powers delegated to it by the several provisions of this Plan; shall have control of all receipts and expenditures; shall act as a Board of Conciliation; shall exercise all the powers vested in the General Arbitration Board between the regular meetings of 225
said Board, except the power to amend the Code of Procedure and fix the expenses of Special Boards. It shall report all its proceedings to the General Arbitration Board. The Committee shall meet once a week or upon the call of the Secretary.

SEC. 16. The Executive Committee first elected shall divide itself by lot into six classes, so that one employer and one employee shall serve one, two, three, four, five and six months respectively. At the expiration of the term of each committee-

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man his successors shall be elected to serve for a period of six months.

SEC. 17. All decisions of the Executive Committee shall be final and binding upon all the parties to this Arbitration Plan unless disapproved by the General Arbitration Board, in the following manner: Upon the receipt of the report of the Executive Committee any decision of the Executive Committee may be subject to review by the General Arbitration Board at the request in writing of an Association of Employers or Employees
227 under seal of the organization and endorsed by a majority vote of the representatives of either side present and voting. In the case of such review the question before the Board shall be, "Shall the decision of the Executive Committee be disapproved?" If the decision is disapproved the General Arbitration Board shall proceed to dispose of the question.

SEC. 18. All complaints shall be addressed to the Secretary, in writing, who shall endeavor to adjust them and report them to the Executive Committee.

SEC. 19. Where a trade agreement exists between
228 an Employers' Association and a Union, all disputes in that trade shall be settled by a Trade Board of Arbitration with an umpire, if necessary. The decision of said Board or Umpire shall be final. Should the Trade Board fail to agree upon an umpire, or should either side fail to abide by the decision of the Trade Board or Umpire, the question shall be referred to the General Arbitration Board, for action, within twenty-four hours after such failure or refusal.

SEC. 20. Should a dispute arise in a trade in

which there is no trade agreement between the Employers' Association and the Union of the trade, or between an Employer and a Union between whom there is no trade agreement, said dispute shall be referred to the General Arbitration Board.

SEC. 21. In the case of a dispute concerning a question of jurisdiction of trade or a dispute caused by conflicting provisions of two or more trade agreements, the complainant shall notify the General Secretary, and the Secretary shall immediately call a conference of the Unions and Employers' Associations interested. 230 The conference shall settle the dispute by conciliation, if possible, or refer it to arbitration, if necessary. Pending the adjustment of the dispute, the work shall be performed by such mechanics members of unions parties to this Plan as the trade contractor for the work may have elected to employ. In case of refusal or failure on the part of any Union or Employers' Association concerned to adjust such a dispute in the manner above described, within twenty-one days after the filing of the complaint, the dispute shall be submitted to the General Arbitration Board or the Executive Committee, which shall determine whether the question at issue is a subject for arbitration. 231 Should the General Board or Executive Committee decide that the question is a subject for arbitration, it shall refer the case to a Special Board, provided the dispute cannot be adjusted by conciliation.

SEC. 22. The work that has been heretofore recognized to be in the possession of a trade shall not be submitted to arbitration; provided, when possession is claimed by a party or parties to a jurisdiction of trade dispute, that question shall

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be decided by the Executive Committee, and in case of a disagreement the Executive Committee shall refer the question to an umpire. If the Executive Committee or the umpire decides that the work has not been in the possession of a trade, the question of who shall perform the work shall then be referred to a Special Board of Arbitration.

SEC. 23. "Unskilled trades" are hereby defined to be those of laborers, helpers or workers from whose ranks mechanics of a particular trade are
233 not regularly recruited. Any difficulty arising in the unskilled trades may be adjusted in accordance with the provisions of this Plan, through the mechanics of the trade in which the unskilled are working; and should the mechanics of a trade repeatedly refuse to file a complaint it may be presented upon the written request of five organizations, parties to this Plan.

SEC. 24. Special Arbitration Boards shall consist of not less than four members, and shall be chosen from the members of the General Arbitration Board. They shall meet within twenty-four hours when notified by the General Secretary.

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SEC. 25. It shall be the privilege of any Union or Employers' Association, through its representatives on the General Arbitration Board, to select the members of a special board to act for them, but no general arbitrator can act when the dispute is occurring in the trade which he represents. In case of the failure of any party to a complaint to select arbitrators within two weeks after an arbitration by a special board has been ordered, the Executive Committee shall select the necessary arbitrators.

SEC. 26. The Arbitration papers are to be drawn by the General Secretary, and shall contain a specific statement of the question in dispute, and a provision that all parties agree to abide by the decision of the Special Board or the umpire. The umpire must be selected before the case is opened. In case of refusal of any party to sign the arbitration papers, the Executive Committee shall determine, from the papers in the case, the specific question to be arbitrated.

SEC. 27. The Arbitration papers must be properly signed and sealed by the contending parties, each party receiving its copy. After a careful hearing of the case, stenographically reported, the verdict obtained by a majority vote, cast so as to include at least one representative of each of the contending parties, or a decision of the umpire shall be final and binding. No organization of Employers or Employees shall be permitted to alter, or amend, any decision or part thereof rendered by the General Board, Executive Committee or a Special Board of Arbitration. 236

SEC. 28. Members of Special Arbitration Boards who may be in the employ of members of the Building Trades Employers' Association are guaranteed re-employment by their firm or corporation when the Special Board on which they shall have served has disposed of the case. 237

SEC. 29. No lawyer is to act as arbitrator, counsel or advisor at any proceeding held under this Plan.

SEC. 30. Business agents of the unions, parties to this plan, shall be permitted to enter all shops, buildings or structures described in Section 1.

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SEC. 31. When the conditions established by this Arbitration Plan are not maintained in a shop or on a job by employers or employees, not parties to this Plan, the Plan shall not apply in this particular shop or on the particular job for the time being; provided, the non-maintenance is proven to the satisfaction of the Executive Committee of the General Executive Board and the dispute cannot be adjusted by it within twenty-four hours.

SEC. 32. The Building Trades Employers' Association agrees that its members and the labor
239 unions collectively agree that the several unions and their members shall faithfully observe and abide by the provisions of this Plan, and the labor unions collectively agree to maintain the wages, hours and other conditions of employment prescribed by the several trade agreements and this Arbitration Plan, wherever members of any trade union, parties to this Plan, are employed within the territory covered by this Plan.

SEC. 33. After the date of the adoption of this Plan, no union shall become a party thereto without the consent of the General Arbitration Board, but should the General Arbitration Board disa-
240 gree on the question of admitting a union, it shall refer the case to arbitration.

Exhibit B.

AGREEMENT

MADE THE 30TH DAY OF OCTOBER, 1909, BY AND BETWEEN THE MASTER CARPENTERS' ASSOCIATION OF THE CITY OF NEW YORK, PARTY OF THE FIRST AND THE JOINT DISTRICT COUNCIL OF THE CITY OF NEW YORK, PARTY OF THE SECOND PART.

Complaint. 241

ARTICLE I.

Object.

In order to prevent any strike or lockout, and to insure a peaceable adjustment and settlement of any and all grievances, disputes and differences that may arise between any employer in the MASTER CARPENTERS' ASSOCIATION and the mechanics affiliated with the JOINT DISTRICT COUNCIL OF GREATER NEW YORK.

Both parties to this agreement do hereby adopt as a basis of settlement the Joint Arbitration Plan, approved at a Joint Conference of the Building 242
Trades Employers' Association and Representatives of the various Unions on July 3rd and 9th, 1903, and revised and adopted on April 22nd, 1905, a copy of which is attached and made a part of this agreement.

And they further agree that they will abide by any and all decisions of said arbitration as Associations, and use any and all lawful means in their power to compel their members to abide by said decisions.

In the event of the Joint Arbitration Committee failing to come to any agreement within three weeks after the filing of the complaint, it shall be submitted to the higher court, provided for in said Ar- 243
bitration Plan.

ARTICLE II.

Sec. 1. That both parties to this agreement shall appoint a Committee of six (6) members with full power to act for the Association and the Joint District Council, which shall form the Joint Arbitration Board provided for in the attached Arbitration Plan, to whom shall be referred all questions in dispute for adjustment, and also the drafting of a new agreement for the ensuing year.

244 Their names and addresses to be sent at once to the Secretary of the Master Carpenters' Association and the Secretary of the Joint District Council, whose duty it shall be to call them together for the purpose of organizing said Board (8 members of which shall constitute a quorum for the transaction of business).

Either side to have the privilege of calling the Board together when there is any question to be brought before it.

Twenty-four hours' notice to be given all members of said Board for any regular or special meet-
245 ing.

All questions in dispute to be settled by a majority vote of the members of each side present and voting, and in the event of a tie vote by the decision of an umpire. All disputed questions to be submitted to an umpire within three weeks after the failure to agree, the decision of an umpire to be binding on both parties.

Sec. 2. This Trade Board to have the power to fine or penalize any firm or individual who may be brought before it, provided said firm or individual is found guilty as charged.

Any fines so imposed to be paid into the Treasury of this Trade Board for its expenses, subject
246 to check by Treasurer and President, one of whom shall belong to each side of the Board. Any funds in the Treasury at the end of the year shall be divided equally between the parties to this contract.

If any fines are imposed they must be paid before further complaint is heard from the side in default.

ARTICLE III.

In case of complaint from either side being made

to the Joint Trade Board, the failure of either side to produce witnesses shall not be considered by the Joint Trade Board as an excuse for postponement of the trial, but all cases must proceed to a hearing and adjustment or be referred to an umpire at the time specified.

In any case where a refusal to handle trim exists it must be decided by the Joint Trade Board within 24 hours or referred to an umpire who shall render his decision within 48 hours.

ARTICLE IV.

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Principles on which this Agreement is Based.

Sec. 1. That there shall be no limitation as to the amount of work a man shall perform during his working day.

Sec. 2. There shall be no restriction against the use of any manufactured material except non-union or prison made. This shall not apply to machine made flooring, or machine planed timber or lumber, nor shall it apply to the product of any shop or mill, material from which members of the Joint District Council will erect in the Borough of Manhattan and in the Borough of the Bronx south of Tremont Avenue from the Bronx to the Harlem 249
River during the life of this agreement for any one not a party thereto, the party of the second part agreeing to erect for members of the Master Carpenters' Association material of any manufacturer which said party of the second part has erected in the above mentioned territory for a non-member during a period of four months preceding the execution of a contract for the use of said material by any member of said Association, it being understood that proof must be given to the Joint Trade Board that the party of the second part has erected such material and further that the period of four months

250 specified above shall not antedate the date of the agreement.

It is understood that outside of the territory above specified the party of the second part agrees to erect for members of the Master Carpenters' Association material of any manufacturer which they will erect for a non-member.

It is agreed that the party of the second part will erect all material contracted for by the party of the first part prior to the signing of this agreement. A list of such contracts to be furnished the Joint District Council within fifteen days of sign-
251 ing agreement.

The refusal of the members of the Joint District Council to erect material other than the above specified shall not be considered a violation of this agreement.

The State Law shall apply to all public or municipal work, unless otherwise decided by the Courts of the State, in which event it will revert to the terms of this agreement.

Sec. 3. There shall be no restriction of the use of any machinery or tools.

Sec. 4. No person, except the Business Agent, shall have the right to interview the workmen
252 during business hours. Anyone hiring or starting men to work, shall notify said men where shop or job steward is working.

Sec. 5. The use of apprentices shall not be prohibited and they shall not be compelled to belong to the union until two (2) years have elapsed. One apprentice to be allowed to every ten (10) men taken from the average employment of carpenters the previous year.

Sec. 6. The Superintendent, also the shop and permanent foreman (who need not belong to any

union) shall be tried by and subject only to the decision of the Joint Arbitration Board for any cause whatsoever that may be brought against them while acting in that capacity. Definition of a permanent foreman is the carpenter in charge of a job. He shall not use tools for more than 10% of the time during the progress of the job over which he has charge, and there shall be but one permanent foreman on each job.

Sec. 7. The Journeymen shall have the privilege of working for whomever they may see fit, according to the terms of this agreement, and the employers be at liberty to employ or discharge whomsoever they see fit, according to the terms of this agreement. 254

Sec. 8. Under no condition shall the Joint District Council or its representatives take any of its members from the employ of a member of the Master Carpenters' Association until the complaint against him has been decided by this Board.

The current working card shall be evidence of membership.

ARTICLE V.

Hours of Labor. 255

Sec. 1. Eight hours shall constitute a day's work, between the hours of 8 a. m. and 5 p. m. for all week days except Saturday, when work shall stop at 12 o'clock noon, with four hours' pay for that day.

Sec. 2. Double time shall be allowed for all work done on Saturday afternoon, Sunday, legal holidays and all overtime on week days.

Sec. 3. It is further agreed that no work shall be performed on Saturday afternoon except in cases

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of necessity or emergency, and that no work shall be performed on Saturday after the hour of 12 noon, unless notice be given to the Secretary of the Joint District Council prior to 10 a. m. on said Saturday, stating shop or building where work is to be performed and number of men required, when double time shall be allowed—the members of the Master Carpenters' Association and the Joint District Council thoroughly recognizing Saturday afternoon as a holiday. The legal holidays referred to in this Article are New Year's Day, Lincoln's Birthday, Washington's Birthday, Decoration Day,
257 Independence Day, Labor Day, Election Day, Thanksgiving Day and Christmas Day.

ARTICLE VI.

Sec. 1. Carpenters' Wages shall be as follows:

Manhattan	Borough.....	per	day,	$5.00	outside,	$4.00	inside
Brooklyn	"	"	"	4.50	"	3.78	"
Bronx	"	"	"	4.50	"	3.78	"
Queens	"	"	"	4.50	"	3.78	"
Richmond	"	"	"	4.00	"	3.78	"

Stair Builders shall receive the outside wages both on Buildings and in shop, but this shall not prevent Cabinet Makers from being employed on Cabinet work in connection with Stair work at
258 inside wages.

Sec. 2. The members of the aboved-named Joint District Council agree not to work for anyone not a member of the Master Carpenters' Association for a less rate per day than is specified in this Article.

Sec. 3. A member of the Master Carpenters' Association sending carpenters outside of the Borough in which they were originally working, shall pay the wages of the Borough from which the carpenters are sent, except when they are sent to a Bor-

ough in which the wages are higher than that from which they are sent; in which case the wages of the Borough in which they are sent are to be paid; but the members of the Master Carpenters' Association shall be permitted to employ men wherever they may be doing work at the prevailing rate of wages in that locality.

ARTICLE VII.

All questions as to the jurisdiction of trade or violation of agreement shall be referred to the Joint Arbitration Board for adjustment and if failing to agree shall by them be referred to the higher court of Arbitration provided for in the attached Arbitration Plan and settled. 260

ARTICLE VIII.

This agreement shall only apply to mechanics in the carpenter trade known as carpenters, cabinet makers, stair builders, framers, machine hands and not to laborers.

The members of the Master Carpenters' Association may employ unskilled labor to carry in, unpack and distribute material about the buildings, but said unskilled labor shall not be employed to cut up or put up any of said materials, or set any window frames, build any bridges and fences, or make or set any centres (except the hanging of centres for brick or hollow tile arches). The same being strictly carpenter's work. 261

ARTICLE IX.

That any member of the Joint District Council, upon showing his card of membership, be permitted to go upon any job controlled by a member of the Master Carpenters' Association, when seeking em-

262 ployment, unless notified by sign, "No carpenters wanted."

ARTICLE X.

Sec. 1. When carpenters are discharged or laid off, they shall be paid in full in cash up to the time of payment.

Sec. 2. When carpenters are sent from one Borough to another they are to be paid all extra carfare.

263 Sec. 3. Members of the Master Carpenters' Association are to provide a lock up satisfactory to the Joint Trade Board in every new building or alteration subject to their control on which they are doing work. In buildings ten stories high or over, a lock up is to be provided on every fifth floor.

Should a member of the Master Carpenters' Association fail to comply with the provisions of the above clause, such a member shall be held responsible by the Joint Trade Board for any loss of tools sustained by a member of the Joint District Council while in the employ of a member of the said Association, upon the submission of proper proof of loss to the Joint Trade Board.

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ARTICLE XI.

The Joint Arbitration Board shall meet on the 2nd Thursday of each month, or at the call of the Chair on either side, and the 2nd Thursday in November shall be a special meeting for the consideration of the yearly agreement, which must be signed on or before the 15th day of December, to go into effect on January 2nd of the following year.

If a building shall be abandoned for any cause,

on which the wages of Joint District Council Carpenters are unpaid, no member of the Master Carpenters' Association shall contract to complete the same until such debt is paid by the original or subsequent owner, or provided for in the new contract: If a member of the Master Carpenters' Association is prevented from carrying out his contract on a building through the insolvency of the owner or any other cause, no Joint District Council Carpenter shall work on said building until the Master Carpenters' contract or claim has been equitably adjusted.

Notice in writing, stating the amount in dispute, must be filed with the Secretary of the Master Carpenters' Association and the Secretary of the Joint District Council within two weeks of the stoppage of the work, giving full particulars. The Secretaries to give proper notice to the Joint District Council and Master Carpenters' Association and their representatives at the beginning and ending of the question in dispute. 266

ARTICLE XII.

If the Courts of the State or City of New York should decide that any clause in this agreement should be unconstitutional or illegal it shall not invalidate the other portions of this agreement, but that any such clause or clauses shall be stricken out. 267

ARTICLE XIII.

It is agreed by the parties that this agreement shall be in force between the parties hereto until December 31, 1911.

268 Complaint.

In behalf of the Master Carpenters' Association:

RUFUS H. BROWN, ROBERT CHRISTIE,
EDWIN OUTWATER, H. STEVENSON,
LEWIS HARDING, ROB. CHRISTIE, JR.

In behalf of Joint District Council:

EDW. L. WELSH, ANDREW HOLLAND,
PETER T. DUNNE, JOHN J. LYONS,
GEORGE HILLEN, JOHN WALLACE,
JAMES MITCHELL.

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269 **Exhibit C.**

AGREEMENT

MADE BY AND BETWEEN THE MANUFACTURING WOOD WORKERS' ASSOCIATION AND THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AND ITS SUBORDINATE UNION, THE JOINT DISTRICT COUNCIL OF THE CITY OF NEW YORK.

ARTICLE I.

Sec. 1. The intent of this Agreement is to lay foundation for peace in the Mill Work Industry, and the bringing about of uniformity as to hours,
270 wages and general conditions, and to provide for the settlement of any and all grievances that may arise between the Manufacturing Wood Workers' Association, parties of the first part, engaged in the manufacturing of Doors, Sash, Window Frames, Moulding, Interior Trim, etc., and the International Union United Brotherhood of Carpenters and Joiners of America, General Offices: Indianapolis, Indiana, and its subordinate Union known as Joint District Council of New York, parties of the second part.

271

Sec. 2. Both parties to this Agreement do hereby adopt as a basis of settlement the Joint Arbitration plan approved at the Joint Conference of the Building Trades Employers' Association and Representatives of the various Unions on July 3rd, and 9th, 1903, revised and adopted on April 22nd, 1905, a copy of which is attached and made a part of this Agreement; and both parties agree that they will abide by any and all decisions of said Arbitration as Associations, and use any and all lawful means in their power to compel their members to abide by said decisions.

272

Sec. 3. Both parties to this Agreement shall appoint a Committee of three members with full power to act for the Association, party of the first part and party of the second part. These six men shall form the Joint Trade Board provided for in the Arbitration Plan. To this Joint Board shall be referred all questions in dispute for adjustment, also the drawing of new Agreement as provided for.

Sec. 4. The three representatives of the Employees' side shall be made up by the selection of one member who shall be selected from the Locals of Manhattan and the Bronx, and one shall be selected from the Locals of the other Boroughs, and one shall be selected from the Joint District Council.

273

The names and addresses of the parties who comprise this Joint Trade Board shall be sent at once to the Secretary of the Association, parties of the first part, and also to the Secretary of the Joint District Council, either of which shall call said Board together upon request by two members of the Board.

Four members of this full Committee shall constitute a quorum for the transaction of business.

274 Twenty-four hours' notice to be given all members of said Board for any regular or special meeting.

All questions in dispute coming before this Board to be settled by a majority vote of the members of each side present and voting, and in the event of a tie vote by the decision of an umpire. All disputed questions to be submitted to an umpire within three weeks after the failure of the Board to agree, the decision of an umpire to be binding on both parties.

275 Sec. 5. This Joint Board to have the power to fine or penalize any firm or individual who may be brought before it if found guilty as charged, and any fines so imposed shall be paid before further complaint is heard from the side in default. Any fine so imposed to be paid into the treasury of the Joint Board for its expenses, subject to check by Treasurer and President, one of whom shall belong to each side of the Board.

Any funds in the treasury at the expiration of this Agreement shall be equally divided between the parties to this Agreement unless otherwise provided for.

ARTICLE II.

276 Sec. 1. The party of the first part, Manufacturing Wood Workers' Association, agrees to confine themselves strictly to the manufacturing of Mill Work Material as herein specified, and agree further that their membership shall not engage in installing or erecting material at any buildings.

And the party of the second party agrees that none of their members will erect or install non-union or prison made material, it being understood that Window Sash 1⅜" thick and under, and Exterior Window Blinds, are not covered under

this Agreement except that these shall not be prison made.

Sec. 2. The party of the second part agrees for its members to erect all materials handled by the parties of the first part manufactured in shops under control of party of the second part. And the party of the second part further agrees that none of the members of their organization shall erect any material known in the Trade as Mill Work specified in this Agreement which has been made in prisons or non-union factories, except as specified in this Agreement. 278

ARTICLE III.

Sec. 1. There shall be no limitation or interference with the amount of work any workman shall perform in any of the shops covered by this Agreement.

Sec. 2. International Union, United Brotherhood of Carpenters and Joiners of America shall grant Charters to two local Unions of the Amalgamated Wood Workers, these Locals to be known hereafter as Mill Workers Locals. One of these Locals to cover the Boroughs of Manhattan and the Bronx and the vicinity north of Manhattan 279 and the Bronx where the members of the Manufacturing Wood Workers' Association are operating mills. The Second Local to cover the other Boroughs of Greater New York.

The membership of the Amalgamated Wood Workers Union now employed by the party of the first part to be taken over by these Locals in their respective Boroughs without discrimination or charges.

Sec. 3. Members of the United Brotherhood of Carpenters to be employed exclusively in the Mills

280 of the Manufacturing Wood Workers' Association.

Forty-eight hours shall constitute a week's work in the Boroughs of Manhattan and the Bronx; in all other Boroughs of Greater New York, fifty hours shall constitute a week's work. In all other mills under the jurisdiction of the Manufacturing Wood Workers' Association, fifty hours shall constitute a week's work.

Note:—Provided, however, if at the end of one year it can be shown that factories employing 500 non-union workmen engaged in manufacturing Mill Work in the territory covered by this Agreement, 281 and that have been working more than fifty hours per week, have been organized under Union conditions as set forth in this Agreement, then forty-eight hours shall become the recognized hours in all shops under the jurisdiction of the United Brotherhood of Carpenters manufacturing Mill Work in the territory covered by this Agreement. This condition when determined as to hours to remain until the termination of this Agreement.

The same proviso as to the reduction of hours shall prevail at the end of the second year if conditions set forth as to organization of Mills are not complied with at the end of the first year.

282

ARTICLE IV.

Sec. 1. Minimum wages for Manhattan and the Bronx to be $17.00 per week. In all other Boroughs of Greater New York and vicinity $15.50 per week. It being understood that the better grade of mechanics shall receive a higher rate of wages as agreed between employer and employees.

Sec. 2. Any mechanic receiving a higher rate of wages than the minimum above specified shall suffer no reduction from the present rates paid.

Sec. 3. No overtime shall be allowed in any of the factories operating under this Agreement other than to save life and property. Double time to be paid for all overtime work.

Sec. 4. One apprentice to be allowed for every eight mechanics, and after one year's apprenticeship shall be required to carry a Union Card.

Terms of apprenticeship shall be four years.

Wages for apprentices:

For the	1st	year	$6.00	per	week
" "	2nd	"	8.00	"	"
" "	3rd	"	10.00	"	"
" "	4th	"	12.00	"	"

284

Apprentices upon becoming journeymen shall receive the minimum wage as herein specified.

Sec. 5. It is further agreed that no work shall be performed on Saturday after the hour of 12 Noon, except as above noted in Section 3, both parties to this Agreement thoroughly recognize Saturday afternoon as a holiday, and the following as legal holidays:

New Year's Day,	Independence Day,
Lincoln's Birthday,	Labor Day,
Washington's Birthday,	Election Day,
Decoration Day,	Thanksgiving Day,

and Christmas Day.

285

ARTICLE V.

Sec. 1. Agreement to extend for a period of three years from January 1st, 1910 to January 1st, 1913.

In view of the fact that existing contracts have been based upon the Agreement at present operating between the party of the first part and the Amalgamated Wood Workers' International Union, it is hereby agreed that the wages and hours stipu-

286 Complaint.

lated in said Agreement shall be the recognized hours and wages in the Agreement until April 1st, 1910.

Sec. 2. Prior to the termination of this Agreement on the first Tuesday of October, 1912, the Joint Trade Board shall convene and the question for consideration at this meeting shall be:

First. Are conditions in the Trade such as will warrant a reduction to forty-four hours per week?

Second. What shall be the minimum wages that shall prevail under the new Agreement?

287 It being understood that the burden of proof shall be upon the United Brotherhood of Carpenters to show that they control the Trade to a sufficient extent to warrant any reduction of hours or increase of wages.

ARTICLE VI.

Sec. 1. If a building shall be abandoned for any cause upon which wages to any member of the Joint District Council of Carpenters are unpaid, no member of the Manufacturing Wood Workers' Association shall further deliver, contract or furnish any Mill Work for same until such debt is

288 paid by the original or subsequent owner, or provide for otherwise under a new contract which provides for the employment of members of the Joint District Council upon said Building.

Or if a member of the Manufacturing Wood Workers' Association has been prevented from carrying out his contract for furnishing the Mill Work on any building through the insolvency of the owner or any other cause, no member of the Joint District Coucil of Carpenters shall be allowed to work on such building until the member of the Manufacturing Wood Workers' Associa-

tion having claims shall have the same equitably adjusted.

Notice in writing with full particulars and the amount in dispute must be filed with the Secretary of the Manufacturing Wood Workers' Association and the Secretary of the Joint District Council within one week of the stoppage of work or the furnishing of any material upon any building in dispute for reasons herein provided for.

The Secretaries of either Association are to give proper notice at the beginning and at the end of the question in dispute.

290

Sec. 2. If the Courts of the State or City of New York shall decide that any clause in this Agreement should be unconstitutional or illegal, it shall not invalidate the other portions of this Agreement, but any such clause or clauses shall be stricken out.

SIGNED by Parties of First Part:—MANUFACTURING WOOD WORKERS' ASSOCIATION, and its members affiliated therein:

JAMES MURRAY, President;
JAMES C. FORBES, Secretary;

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SIGNED by Parties of Second Part:—INTERNATIONAL UNION UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, and its Subordinate Union, Joint District Council of New York, and its members affiliated therein:

WM. D. HUBER, Gen. Pres of U. B.
JOHN J. TOWERS, Pres. J. D. C.
D. F. FEATHERSTON, Sec'y. Treas. J. D. C.
EDW. L. WELSH,
GEORGE HELLEN,
HARRY L. COOK, G. O.
ARTHUR A. QUINN, G. O.

292 Marshall's Certificate.

I HEREBY CERTIFY, That on the 6th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

Elbridge H. Neal, at 602 East 138th Street, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; James Elgar, Inc., by serving Benjamin F. Elgar, 2nd, as President of
293 said Company, at No. 103 Park Avenue; Ellison Construction Company, by serving Wilfred Ellison, as President of said Company, at No. 1493 Broadway; Pottier & Stymus Company, by serving Albert J. McGee, as Secretary of said Company, at No. 143 East 41st Street;

Wakeham & Miller, Inc., by serving Frank H. Wakeham, as President of said Company, at No. 103 Park Avenue;

Mark Eidlitz & Son, by serving Otto M. Eidlitz, as a member of said firm, at No. 489 Fifth Avenue;
294 Jennings & Welstead, by serving Thomas A. Welstead, as a member of said firm, at No. 227 West 50th Street;

Leopold Kantor & Company, by serving Joseph B. Cooper, as a member of said firm, at No. 449 West 41st Street;

Ranald H. MacDonald, by personal service at No. 29 West 34th Street;

Sloane & Moller, Inc., by serving William J. Sloane, as President of said Company, at No. 316 East 65th Street;

Marshall's Certificate. 295

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and affidavits, and at the same time and place I left with each of them a copy of each thereof for each of them.

I hereby further certify, That on the 7th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

David French and Henry W. Blumenberg, at No. 142 East 59th Street; Wallace Anderson, Thomas Dalton and John T. Donovan, at No. 375 East 149th Street, each individually and as business agents of said Joint District Council of New York and Vicinity; 296

Harry L. Cook, at No. 142 East 59th Street, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America;

Charles H. Bausher, at 375 East 149th Street, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; 297

P. J. Carlin Construction Company, by serving Patrick J. Carlin, as President of said Company, at No. 16 East 23rd Street;

Fountain & Choate, Inc., by serving Alfred E. Fountain, Jr., as President of said Company, at 110 East 23rd Street;

298 Marshall's Certificate.

Hedden Construction Company, by serving Elbert S. Barrow, as Vice-President and Treasurer of said Company, at No. 1 Madison Avenue;

John H. Parker Company, by serving Thomas J. Gallagher, as Secretary of said Company, at No. 42 East 23rd Street;

E. E. Paul Company, by serving Edward E. Paul, as President of said Company, at No. 1 Madison Avenue;

Andrew J. Robinson Company, by serving An-
299 drew J. Robinson, as Secretary of said Company, at No. 123 East 23rd Street;

J. C. Vreeland Building Company, by serving J. C. Vreeland, as President and Treasurer of said Company, at No. 1 Madison Avenue;

Murray & Hill Company, by serving John Alexander, as Secretary of said Company, at Southern Boulevard and 144th Street;

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and Affidavits, and at the
300 same time and place I left with each of them a copy of each thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 8th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

Richard Mortan, at No. 142 East 59th Street, individually and as business agent of said Joint District Council of New York and Vicinity;

Bottsford-Dickinson Company, by serving D. O.

Jones, as Secretary of said Company, at 1170 Broadway; 301

Robert Christie & Son, Inc., by serving Charles Albesi, as Secretary of said Company, at No. 122 West 29th Street;

Charles A. Cowen & Company, Inc., by serving Charles H. Cowen, as Vice-President of said Company, at No. 1125 Broadway;

Hugh Getty, Inc., by serving Hugh H. Getty, as Secretary of said Company, at No. 359 West 26th Street; 302

George L. Hiltl Company, by serving George L. Hiltl, as President and Treasurer of said Company, at No. 55 East 20th Street;

George Mulligan Company, by serving William J. Green, as Secretary of said Company, at No. 33 East 32nd Street;

S. M. Randall & Son, Inc., by serving George W. Randall, as Vice-President and Treasurer of said Company, at 1125 Broadway;

John W. Schaefer, Jr., & Company, Inc., by serving Henry C. Carrera, as Secretary and Treasurer of said Company, at No. 5 West 31st Street; 303

Tidewater Building Company, by serving Joseph P. Ranney, as Secretary and Treasurer of said Company, at No. 16 East 33rd Street;

Tucker & Vinton, Inc., by serving Thomas H. Vinton, as President and Treasurer of said Company, at No. 103 Park Avenue;

Watt & Sinclair, Inc., by serving William Watt,

304 Marshall's Certificate.

as President of said Company, at No. 160 Fifth Avenue;

Charles T. Wills, Inc., by serving Ernest H. Gardner, as Secretary and Treasurer of said Company, at 286 Fifth Avenue;

Daniel P. Christie, at 510 West 24th Street, as a member of the firm of D. & A. Christie;

Andrew Christie, at 510 West 24th Street, as a member of the firm of D. & A. Christie;

305 Joseph A. Duffy, at 129 West 31st Street, as a member of the firm of Duffy & Collin;

Francis Collin, as a member of the firm of Duffy & Collin, by serving Joseph A. Duffy, his partner, who accepted service for him, at No. 129 West 31st Street;

Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, at No. 348 West 27th Street;

Kerr & Krenkel, by serving Peter Kerr, as a member of said firm, at No. 205 West 30th Street;

306 Thomas F. Rae, doing business under the trade name of Thomas Rae & Son, by serving John M. Rae, who stated that he was a member of the firm of Thomas Rae & Son, at No. 235 West 27th Street;

Thomas Rae & Son, by serving John M. Rae, as a member of said firm, at No. 253 West 27th Street;

William S. Miller, by personal service at No. 141 East 40th Street;

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunc-

tion, Bill of Complaint and Affidavits, and at the same time and place I left with each of them a copy of each thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 9th day of March, 1911, at the City of New York, in my District, I served the within-named defendants as follows:

George A. Fuller Company, by serving Paul Starrett, as President of said Company, at No. 111 Broadway;

308

Gross & Herman, Inc., by serving Harry E. Herman, as a Director of said Company, at No. 41 Park Row;

James C. Hoe's Sons, Inc., by serving William J. Hoe, as Secretary and Treasurer of said Com- at No. 52 Gansevoort Street;

W. E. Smith, Inc., by serving W. E. Smith, as President of said Company, at No. 1 Madison Avenue;

Thompson-Starrett Company, by serving Charles B. Pond, as Treasurer of said Company, at No. 49 Wall Street;

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Turner Construction Company, by serving E. Wright Chapman, as Secretary of said Company, at No. 11 Broadway;

Empire City-Gerard Company, by serving David W. O'Neil, as President of said Company, at No. 40 East 22nd Street;

James S. Herrman, doing business under the trade name of Philip Herrman's Sons, at No. 407 West 14th Street;

310 Marshall's Certificate.

Jones Construction Company, by serving Walter G. Jones, as President of said Company, at No. 1 Union Square;

C. F. Bond Company, by serving Charles F. Bond, as President of said Company, at No. 136 Liberty Street;

Alfred Beinhauer, by personal service at No. 200 Fifth Avenue;

Patrick Gallagher, by personal service at 1181 Broadway;

311

John H. MacDonald, by personal service at No. 357 West 16th Street;

Donald Mitchell, by personal service at No. 302 West 53rd Street;

Walter E. Thompson, by personal service at No. 1123 Broadway;

J. Odell Whitenack, by personal service at No. 331 West 16th Street;

Jacob A. Zimmerman, by personal service at No. 505 Fifth Avenue;

312 To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and Affidavits, and at the same time and place I left with each of them a copy of each thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 10th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

C. W. Klappert's Sons, Inc., by serving Ferdinand Alexander, as Secretary of said Company, at No. 328 East 25th Street;

Roebling Construction Company, by serving Richard Croker, Jr., as Secretary of said Company, at No. 1 Madison Avenue;

Richard L. Walsh Company, by serving Valentine Lynch, as Secretary of said Company, at No. 100 William Street;

Whitney, Steen Company, by serving T. Eckford Rhoades, as Assistant Secretary of said Company, 314
at No. 1 Liberty Street;

William Young Company, by serving Archibald MacDonald, as Secretary and Treasurer of said Company, at No. 550 West 41st Street;

Boyd & Selfridge, by serving James Selfridge, as a member of said firm, at No. 949 Broadway;

M. Davis & Son, by serving Max Davis, as a member of said firm, at No. 1048 Morris Avenue;

Alexander Moore's Sons, by serving Alexander Moore, Jr., as a member of said firm, at No. 1 West 315
68th Street;

P. Walsh Company, by serving Patrick Walsh, as a member of said firm, at No. 420 West 25th Street;

P. Herschowsky, by personal service at No. 1537 Fulton Street;

Isidore Rosenfeld, by personal service at No. 1600 Washington Avenue;

Stephen Ball, by personal service at No. 271 West 125th Street;

316 Marshall's Certificate.

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and Affidavits, and at the same time and place I left with each of them a copy thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 11th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

317 The Norcross Brothers, by serving Thomas O'Reilly, as New York Manager of said Company, at their regular and established place of business, No. 160 Fifth Avenue;

Harlem River Lumber & Woodworking Company, by serving George Stark, as Secretary and Treasurer of said Company, at Gerard Avenue and 138th Street;

O'Connell & Hanna, by serving William J. Hanna, as a member of said firm, at No. 271 West 125th Street;

318 William Somerville, by personal service, at No. 165 East 124th Street;

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaints and Affidavits, and at the same time and place I left with each of them a copy of each thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 13th day of March, 1911, at the City of New York, in my District, I served the within-named Defendants as follows:

E. G. Hantsche & Company, by serving Emil G. Hantsche, Jr., as a member of said firm, at No. 140 East 43rd Street;

Stoddard & Hughes, by serving Herbert S. Stoddard, as a member of said firm, at No. 244 West 29th Street;

John I. Downey, by personal service at No. 410 West 34th Street;

A. C. Imhof, by personal service at No. 249 West 18th Street; 320

David Kraus, by personal service at No. 1888 Marmion Avenue;

Miller & Walter, by serving Julius R. Miller, as a member of said firm, at No. 2352 Second Avenue;

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and Affidavits, and at the same time and place I left with each of them a copy thereof for each of them.

I HEREBY FURTHER CERTIFY, That on the 14th day of March, 1911, at the City of New York, 321 in my District, I served the within-named Defendants as follows:

A. Gruskin, by personal service at No. 282 Brook Avenue;

William McKenzie, by personal service at No. 108 West 90th Street;

To each of the foregoing I exhibited the within Original Notice of Motion for Preliminary Injunction, Bill of Complaint and Affidavits, and at the

322 Marshall's Certificate.

same time and place I left with each of them a copy of each thereof for each of them.

I HEREBY FURTHER CERTIFY, That after due and diligent search I am unable to find the within-named Defendants in the Southern District of New York, as follows:

Lawrence Storey, Morris Frank, William Frank, Harris Passeloff, Nathan Strom, Samuel Aginzky, Hyman Berman, James J. Bradley, Richard H. Casey, Charles Cohen, Nathin Hopin, Hyman Pes-
323 kin, Paul Peterson, J. Reich, Abraham Rosen, Otto Strack, Paul Swanson, Louis Weiner and James C. Forbes.

WILLIAM HENKEL,
U. S. Marshal,
S. D., N. Y.

Dated, New York, March 16th, 1911.

324

Answer.

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UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIMITED, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company,

Plaintiffs.

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AGAINST

ELBRIDGE H. NEAL, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Conrad C. Swenson, Lawrence Storey, Charles Peterson, individually and as business agents of said Joint District Council of New York and Vicinity; Charles H. Bausher, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and

In Equity.

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328 Answer.

Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Harry L. Cook, individually, and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Frank Duffy, individually and as Secretary of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters
329 and Joiners of America, and William D. Huber, individually and as President of said United Brotherhood of Carpenters and Joiners of America; Murray & Hill Company, Harlem River Lumber & Wood-Working Company, Empire City-Gerard Company, David W. O'Neil, James C. Forbes, C. F. Bond Company, Bottsford-Dickinson Company, Robert Christie & Sons, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company, Inc., James Elgar, Inc., Ellison Construction
330 Company, Fountain & Choate, Inc., Hugh Getty, Inc., Gross & Herman, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., Jones Construction Company, C. W. Klappert's Sons, Inc., Lewis Harding & Company, James MacArthur Company, George Mulligan Company, F. T. Nesbit & Company, Inc., John H. Parker Company, E. E. Paul Company, Pottier & Stymus Company, S. M. Randall &

Answer.

Sons, Inc., Andrew J. Robinson Company, John V. Schaeffer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., W. E. Smith, Inc., John Thatcher & Son, Inc., Thompson-Starrett Company, Tidewater Building Company, Tucker & Vinton, Inc., Turner Construction Company, Wakeham & Miller, Inc., Richard L. Walsh Company, Watt & Sinclair, Inc., Whitney, Steen Company, Charles T. Wills, Inc., William Young Company, George A. Fuller Company, Roebling Construction Company, J. C. Vreeland Building Company, The Norcross Brothers Company, Schweizer & West Manufacturing Company, John H. Adamson, Samuel Aginsky, Hiram A. Akerly, Stephen Hall, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, Hyman Berman, James J. Bradley, Rufus H. Brown, John H. Carl, Richard H. Casey, Charles Cowen, John I. Downey, Robert B. Ferguson, Patrick Gallagher, A. Goldberg, A. Gruskin, P. Herschowsky, George Hildebrand, Nathan Hopin, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William McKenzie, Louis Mader, William S. Miller, Donald Mitchell, George M. Morrison, Edward Outwater, Hyman Peskin, Paul Peterson, J. Reich, Abraham Rosen, Isidore Rosenfeld, Frank H. Rush, William Somerville, Otto Strack, Paul Swanson, Walter

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334 Answer.

E. Thompson, Joseph Wagner, Louis Weiner, J. Odell Whitenack, Jacob A. Zimmerman, Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, Otto M. Eidlitz and
335 Robert J. Eidlitz, co-partners, doing business under the firm name of Mark Eidlitz & Son, Morris Frank and William Frank, co-partners, doing business under the firm name of Frank & Frank, Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's
336 Sons, Samuel H. E. Jennings and Thomas A. Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-partners, doing business under the firm name of Leopold Kantor & Company, Julius R. Miller and Louis Walter, co-partners, doing business

under the firm name of Miller & Walter, William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, Timothy I. O'Connell, Jr., and William J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, Harris Pasloff and Nathan Strom, co-partners, doing business business under the trade name of Pasloff & Strom, Thomas F. Rae, doing business under the trade name 338 of Thomas Rae & Son, Hyman Rappaport and Benjamin Bessner, co-partners, doing business under the firm name of Rappaport & Bessner, Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, Patrick Walsh and James C. Taylor, co-partners, doing business under the firm name of P. Walsh Company, Morris Wolfinger and Max Lasberg, co-partners, doing business under the firm name of 339 Wolfinger & Lasberg, Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, Daniel P. Christie and Andrew Christie, co-partners, doing business under the firm name of D. & A. Christie,

Defendants.

The defendants, ELBRIDGE H. NEAL, individually, and as Secretary and Treasurer of the Joint Dis-

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trict Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America, and Amalgamated Society of Carpenters and Joiners of America; WALLACE ANDERSON, HENRY W. BLUMENBERG, THOMAS DALTON, FREDERICK DIHUY, JOHN T. DONOVAN, HENRY ERICKSON, DAVID FRENCH, MATTHEW C. HEINEN, ALEXANDER KELSO, GEORGE LYNCH, ALBERT W. LEEK, JAMES MARTIN, RICHARD MORTAN, AUGUST NAGEL, FRANK NORTON, WILLIAM O'GRADY, CHARLES PETERSON, CONRAD C. SWENSON, individually and as Business
341 Agents of said Joint District Council of New York and Vicinity; CHARLES H. BAUSHER, individually and as Business Agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America, and HARRY L. COOK, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America, for answer to the complaint herein, do say and aver:

1. They have no knowledge or information sufficient to form a belief as to any of the allegations
342 in sections numbered 1, 2, 3, 4, and 5, of the complaint, except that the plaintiffs operate mills in the places stated for the manufacture of doors, sashes, frames and other wood trim.

2. They have no knowledge or information sufficient to form a belief as to any of the allegations in section 6.

3. They admit the allegations in section 7 that each of the plaintiffs employ carpenters who do not

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belong to the United Br[illegible]hood, or any of its subordinate unions, and t[illegible]eir mills are non-union and open shops or mi[illegible]

4. They have no knowledge or information sufficient to form a belief as to any of the allegations in sections 8 and 9.

5. They admit the allegations in section 10 that the United Brotherhood of Carpenters and Joiners of America is an unincorporated association of carpenters, but allege that the Amalgamated So- 344
ciety of Carpenters and Joiners of America is another unincorporated association of carpenters, having its own local unions or branches, which in certain localities are affiliated with the local unions of the United Brotherhood; and they admit the other allegations in section 10, as applying only to the said United Brotherhood.

6. They admit the allegations in section 11, except "and the discrimination or boycott levied against the employment and handiwork of all non-union members as hereinafter set forth."

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7. They deny each and every allegation in section 12, except they admit and aver that the United Brotherhood, owns, controls, edits, publishes and issues monthly a paper styled "The Carpenter," in which are published only for the benefit of its own members the reports of many of the acts of the officers, organizers, agents and general executive board, and which gives at times information to its members regarding the conditions in some non-union mills.

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8. They deny each and every allegation in section 13, except that they admit the United Brotherhood has a certain label which it styles "Union label of the United Brotherhood of Carpenters and Joiners of America," and which may be used only upon such wood-work as is produced by manufacturers who employ members of said United Brotherhood exclusively at the work of carpentry, except on permission of the General President, but they allege that the said label is not used on a large part of the wood-work produced by manufacturers who
347 employ members of said United Brotherhood exclusively.

9. They admit the allegations of section 14, except the words, on referring to the Amalgamated Society, "which is a part of said United Brotherhood," but they admit that the branches of the Amalgamated Society are represented in the City of New York in said Joint District Council.

10. They admit the allegations in section 15, except that the said Joint District Council has adopted a constitution, it having only adopted by-
348 laws and rules under the general constitution of the United Brotherhood.

11. They deny each and every allegation in section 16, except that they admit and aver that the Joint District Council has adopted the union label, the use of which by them has been authorized by the Legislatures of the State of New York and other states; that the business agents are elected by the votes of the members of the unions in said Joint District Council with power to call strikes only in

certain limited cases; that a by-law provides for the fining of members $10 who work on unfair trim; that some of the business agents are expressly elected to deal with shops and unfair trim, such as is produced by the plaintiffs, but in ways limited by the rules of the Joint District Council.

12. They admit the allegations in section 17, except that Storey is a business agent, he having been one, but is now deceased.

13. They have no knowledge or information sufficient to form a belief as to any of the allegations in section 18, except that the officers and members are forbidden to furnish to outside persons lists of members, and that the local unions affiliated with the Joint District Council have delegated certain powers to the Joint District Council and the business agents as expressed in said by-laws and rules, and the business agents are empowered to act in ways prescribed by said by-laws and rules. 350

14. They have no knowledge or information sufficient to form a belief as to any of the allegations in sections 19, 20 and 21, except that a number of contracting carpenters including some of the defendant contractors formed the Master Carpenters' Association of the City of New York, and they are informed and believe that a large number of the defendants do not use in their business such products as are produced by the plaintiffs. 351

15. They have no knowledge or information sufficient to form a belief as to any of the allegations in section 22, except that since on or about the 3d day

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of July, 1903, the said Master Carpenters' Association has been affiliated with the Building Trades Employers' Association, which includes many employers in different branches of the building trades, and that a number of the defendant contractors have been, or are, members of the Master Carpenters' Association; that on or about the 22d day of April, 1905, the Building Trades' Association entered into a Joint Arbitration Plan with a number of unions consisting of craftsmen in some of the branches of the building industry, a copy of which
353 is attached to the complaint marked exhibit "A," for the provisions of which they respectfully refer to the instrument; that one of the objects of said Joint Arbitration Plan was to prevent strikes, and allege that another object was to prevent lockouts of the craftsmen. They further admit that the said Joint Arbitration Plan was discontinued before the commencement of this action, except insofar as it is embodied in such trade agreements as exhibit "B," attached to the complaint.

16. They have no knowledge or information sufficient to form a belief as to any of the allegations
354 in section 23, except that the defendants therein mentioned are members of the Manufacturing Wood-workers' Association of New York and Vicinity, which is affiliated with the Building Trades Employers' Association, and they were parties to the Joint Arbitration Plan during part of its existence.

17. They have no knowledge or information sufficient to form a belief as to any of the allegations in section 24.

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18. They deny each and every allegation in section 25.

19. They deny the allegations in section 26 that they have entered upon any combination or conspiracy and have performed oppressive acts; and, on information and belief, deny each and every other allegation therein, except that they admit the allegations in sub-division:

(a) That they have adopted the provision or rule therein quoted, and that no local union can adopt a rule inconsistent therewith; that the label therein referred to is the union label of the United Brotherhood; that said label cannot be used on trim not made by Brotherhood members, except on orders of the General President; and allege that a considerable part of the trim made by the Brotherhood members does not bear this union label; that the use of the word "unfair" as applied to plaintiffs' materials would mean not made under fair and union conditions, and as hereinafter stated. 356

(b and c) They admit that the Joint District Council of New York has adopted a rule subjecting its members to a fine of $10 for working on material declared unfair by said Joint District Council, but they know of no imposition of said fine upon a member. 357

(d) That there is no understanding requiring strikes to be called in other trades on complaint of the United Brotherhood or the Joint District Council; that while one trade may complain to another trade that non-union conditions prevail on a certain building, it is wholly at the disposal of each

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trade to determine what, if any, action will be taken on such a complaint.

(e) The members of the Brotherhood have on different occasions declined to handle or install wood products on ascertaining that they were non-union, and in the case of the plaintiffs, that they were the products of a trust as hereinafter set forth, and more especially in the case of the Paine Lumber Company, that they were made under the conditions as hereinafter stated.

359 (g) They admit that the Joint District Council and the Master Carpenters' Association, on or about the 30th day of October, 1909, entered upon an agreement, a copy of which is attached to the complaint, marked as exhibit "B," and the Joint District Council insisted that the provisions as to non-union trim be inserted therein, and for the terms of which they refer to the instrument.

(h) They admit that on or about the 1st day of January, 1910, the Manufacturing Wood-workers' Association entered upon an agreement with the United Brotherhood and the Joint District Council of New York and Vicinity, a copy of which is
360 annexed to the complaint, and marked exhibit "C," and for the terms of which they refer to said instrument, which agreement is still in operation and effect; and further admit that other agreements similar in part have been entered into by other manufacturing wood-workers.

(i) That at times an occasional non-union mill has been stated to be unfair in "The Carpenter."

(j) They admit that at the City of New York

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they have prepared lists of some of the manufacturers of wood-work who conduct their mills under union conditions for the use of contractors parties to the different agreements hereinbefore referred to primarily, and at their request, and that these lists which embody only part of the union mills employing exclusively Brotherhood men, have not contained the names of the plaintiffs' non-union mills; they further admit that some of these lists have contained the introduction as set forth in sub-division (j), but they allege that said introduction to said lists was discontinued before the commencement of this action. That these lists include only mills in and near the City of New York, where the wages and hours correspond, or nearly correspond, to the conditions in the union mills in the Borough of Manhattan, City of New York, and that the plaintiffs' mills even if unionized would not be included in these lists. That there are hundreds of union mills not included in said lists.

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20. They deny each and every allegation in sections 27, 28, 29 and 30.

21. These defendants further aver, on information and belief, that these plaintiffs, and each of them, are members of the Veneered Door Association and the Eastern Sash, Door and Blind Manufacturers' Association, each of which associations consist of many manufacturers of wood-work similar to that mentioned in the complaint. That these associations are under agreements and understandings with each other and the members thereof, including plaintiffs, to carry out in unison and in restraint of trade the unlawful purposes herein-

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364 Answer.

after mentioned, and have entered upon a conspiracy and formed a trust for the enforcement of said purposes. That the said associations have been unlawfully formed, and their members have allied themselves together, to unlawfully control and monopolize the manufacture and sale of all the woodwork referred to in the complaint, and to arbitrarily and unlawfully fix and control at higher prices than the market value, all the products of wood-working mills referred to in the complaint, and to prevent and destroy competition with themselves
365 therein, and to prevent and destroy the inter-state commerce of all wood-working manufacturers who are not members of said associations, including all manufacturing wood-workers who employ the members of the Brotherhood of Carpenters in the City of New York, and to prevent the members of the Brotherhood of Carpenters employed in union mills from obtaining work at the union rates of wages and hours prevailing in the union mills in the City of New York and elsewhere. That in pursuance of said conspiracy these plaintiffs and said associations have secured nearly a monopoly of the trade of manufacturing and selling the wood-work re-
366 ferred to in the complaint, and have arbitrarily fixed, enforced and secured prices therefor beyond the market value thereof, and have destroyed much competition therein. That the purpose of this action is to further extend said trust and acquire an absolute monopoly and prevent competition as aforesaid, and that the expenses of this action are being paid, and said action fostered and maintained, in part by other members than plaintiffs of said associations, monopoly and trust, in furtherance of said ends.

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22. These defendants further allege that the membership of the Brotherhood of Carpenters, and of said Joint District Council, consist of journeyman carpenters who work in mills in making wood products, including such as is mentioned in the complaint herein, and journeyman carpenters who work in the construction and alteration of buildings, including the installation of wood-work made in mills. That some of their members at times change their employment from one of these branches of work to the other. That in the City of New York there are about three thousand five hun- 368
derd members of unions in the Joint District Council who work in union mills. That the wages in union mills are higher and the hours shorter than in non-union mills. That there is a competition in the City of New York especially between the union and non-union mill owners. That in the making of the agreements mentioned in the complaint, and whenever the members of the Brotherhood of Carpenters and Joint District Council employed on buildings have declined to work on the products of non-union mills it has been for the purpose of keeping and securing employment for its own members engaged in union mills, and to maintain fair 369
and union conditions of hours and wages among their members, and no method is employed by these unions to secure these purposes except by refusing to work. That no carpenter who is qualified as such is refused admission to membership in said unions.

23. That the said unions of carpenters are organized to maintain fair rates of wages and hours of labor, and in the mills where union conditions prevail no women, girls or young boys are employed

370 in the manufacture of wood-work. That in the mill of the plaintiff, Paine Lumber Company, Limited, which is the principal mill in said trust to control and prevent competition in the wood-work set forth in the complaint as defendants are informed and believe, there are employed, as the business varies, from one hundred to two hundred and fifty women and girls in said mill, along with several hundred men and about sixty-five boys under sixteen years of age in the manufacture of the wood-work mentioned in the complaint at very meagre wages, running as
371 low as ten cents and less an hour, and averaging about seventeen cents an hour for the men for ten hours work every week day under demoralizing conditions. That it is hazardous and against public policy to have women and children under sixteen years of age employed in wood-manufacturing mills, and defendants claim that for these reasons they have the right to decline to handle the products of such mills, and so refuse to encourage the employment of women and children and under such conditions. That for defendants to handle such wood-work would tend to the disorganization of union mills where fair and living wages are paid for rea-
372 sonable hours, and no women and children are employed, and the conditions are wholesome. That wherever these defendants have referred to the said wood products being unfair they have had in mind the above conditions under which they are made, as well as the fact that they are non-union.

24. That the objects of the Brotherhood of Carpenters are as follows, quoting from its Constitution:

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"To discourage piece work, to encourage an apprentice system and a higher standard of skill, to cultivate feelings of friendship among the craft, to assist each other to secure employment, to reduce the hours of daily labor, to secure adequate pay for our work, to furnish aid in cases of death or permanent disability, and by legal and proper means to elevate the moral, intellectual and social condition of all our members, and to improve the trade."

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25. These defendants allege that said plaintiffs' bill of complaint contains many conclusions heresay allegations and imperfections, which these defendants do not admit, but do deny, and by this their answer protest against, saving and reserving all the rights, and remedies of these defendants with respect thereto.

And they deny all and all manner of unlawful combination, conspiracy and confederacy wherewith they, or any of them, are by said bill charged without this, that if there is any other matter, cause or thing in the said plaintiffs' bill of complaint contained material or necessary for these defendants to make answer unto, and not herein or hereby well and sufficiently answered, confessed, traversed, avoided, or denied, is true to the knowledge or belief of these defendants, all of which matters and things these defendants are ready and willing to aver, maintain and prove as this honorable Court shall direct, and they humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

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376 Answer.

CHARLES MAITLAND BEATTIE,
Solicitor and of counsel for defendants
making and filing this answer,
Office & P. O. Address,
116 Nassau Street,
Manhattan, New York City.

WILLIAM P. MALONEY,
Of counsel.

STATE OF NEW YORK,
County of New York. } ss.:

377 ELBRIDGE H. NEAL, came before me personally, and first being duly sworn, says on his oath, that he is one of the defendants herein; that he has read the foregoing answer and knows the contents thereof, and that the matters and things therein set forth are true of his own knowledge, except as to those things therein stated to be alleged on information and belief, and as to those matters and things said Neal believes them to be true.

Further affiant saith not.

ELBRIDGE H. NEAL.

378 Subscribed and sworn to before me, the undersigned Notary Public, this 19th day of April, 1911.

My commission expired March 30th, 1912.

OTTO A. GILLIG,
Notary Public,
New York County.

ANSWER OF CERTAIN DEFENDANTS. 379

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIMITED, and Others,
Complainants,

against

ELBRIDGE H. NEAL and Others,
Defendants.

In Equity.

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The defendants C. F. Bond, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company (sued herein as Charles A. Cowen & Company, Inc.), Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., The Jones Construction Company (sued herein as Jones Construction Company), C. W. Klappert's Sons, 381
Inc., James MacArthur Company, George Mulligan Company, E. E. Paul Company, Pottier & Stymus Company, Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son., Inc., John Thatcher & Son (sued herein as John Thatcher & Son, Inc.), Tidewater Building Company, Tucker & Vinton (sued herein as Tucker & Vinton, Inc.), Turner Construction Company, Wakeham & Miller (sued herein as Wakeham & Miller, Inc.), Richard L.

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Walsh Company, Watt & Sinclair, Inc., Whitney-Steen Company, Charles T. Wills, Inc., William Young Company, George A. Fuller Company, The Roebling Construction Company (sued herein as Roebling Construction Company), J. C. Vreeland Building Company, The Norcross Brothers Company, Schweizer & West Manufacturing Company, Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, John H. Carl, Robert B. Ferguson, Patrick Gallagher, A. Grushkin (sued herein as A. Gruskin), George Hildebrand, John
383 Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William Mackenzie (sued herein as William McKenzie), Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Isidore Rosenfeld, Frank H. Rush, William Somerville, Walter E. Thompson, Joseph Wagner, J. Odell Whitenack, Jacob A. Zimmerman, Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business
384 under the firm name of Duffy & Collin, Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Marc Eidlitz & Son (but referred to in the Complainants' Bill of Complaint as Mark Eidlitz & Son), Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's Sons, Samuel H. E.

Jennings and Thomas A Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-partners doing business under the firm name of Leopold Kantor & Company, Julius R. Miller and Louis Walter, co-partners, doing business under the firm name of Miller & Walter, William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, Timothy I. O'Connell, Jr., and 386
William J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, Thomas F. Rae, being one of two persons doing business under the trade name of Thomas Rae & Son, Hyman Rappaport and Benjamin Besner, co-partners, doing business under the firm name of Rappaport & Besner (but referred to in the Bill of Complaint as Rappaport & Bessner), Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, Daniel P. Christie and Andrew Christie, 387
co-partners, doing business under the firm name of D. & A. Christie, Thompson-Starrett Company, W. E. Smith, Inc., John I. Downey, Rufus H. Brown, S. M. Randall & Son, Inc.

First: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the paragraphs marked "1," "2," "3," "4," "5," "6," "7," "9," "10," "11," "12," "13," "14," "15," "16," "17" and "18."

388 Answer of Certain Defendants.

Second: As to paragraph "21" of the Complainants' Bill of Complaint, these defendants admit that they are members of an unincorporated association known as the Master Carpenters' Association of the City of New York; deny that such association is in any sense a combination, and deny that the said association is, or that its officers are, empowered to make contracts binding upon these defendants as individuals, or to make any agreement or contract binding upon these defendants after they may have severed their connection with
389 the said association.

Third: These defendants deny the allegations contained in the paragraph marked "22" of the Complainants' Bill of Complaint, except that they admit that they are members of the Building Trades Employers' Association; and except that they admit and allege that the relationship between the said Building Trades Employers' Association and the other trade associations is defined in the constitution and by-laws of the said Building Trades Employers' Association, a copy of which is hereto annexed and marked "Exhibit A"; and except that they admit
390 and allege that the plan known as the "Joint Arbitration Plan" annexed to the Complainants' Bill of Complaint was heretofore adopted by the Building Trades Employers' Association and various unions, parties thereto; and except that they admit that the said Arbitration Plan continued in existence up to January, 1910, at which time the operation of the Plan was discontinued.

Fourth: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the para-

graphs marked "24" and "25" of the Complainants' Bill of Complaint.

Fifth: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in paragraph marked "26" of the Complainants' Bill of Complaint which precedes subdivision "(a)" thereof, and deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in subdivisions "(a)," "(b)," "(c)" and "(d)" of said paragraph marked "26"; 392
deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in subdivisions "(e)" and "(f)" of paragraph "26," except that these defendants admit, upon information and belief, that members of the Brotherhood of Carpenters have from time to time given notice that they would refuse to work and have refused to work, on buildings because wood materials produced by certain so-called non-union manufacturers were being or were about to be installed in said buildings. These defendants deny each and every of the allegations contained in subdivision "(g)" of the said paragraph marked "26" 393
of the Complainants' Bill of Complaint, except that they admit for several months previous to October 30, 1909, the United Brotherhood of Carpenters refused to enter into any trade agreement with the said Master Carpenters' Association unless the said Master Carpenters' Association would embody in said proposed agreement a clause substantially as appears in Article IV of the present trade agreement annexed to the Complainants' Bill of Complaint marked "Exhibit B"; and except that they

admit that the Master Carpenters' Association made said trade agreement; and these defendants deny that Article IV or any other provision of said agreement is intended, regarded or interpreted by the parties in any other sense than their fair purport will permit. These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in subdivision "(h)" of said paragraph marked "26," except that they admit, upon information and belief, that the instrument attached to the Com-
395 plainants' Bill of Complaint as "Exhibit C" was made between the Manufacturing Woodworkers' Association and the representatives of the Brotherhood of Carpenters. These defendants deny any knowledge or information sufficient to form a belief as to each and every the allegations contained in subdivisions "(i)," "(j)" and "(k)" of paragraph marked "26" of the Complainants' Bill of Complaint, except that they admit, upon information and belief, that so-called unfair lists have been circulated, but not of recent date, and that a notice such as is set forth in said subdivision "(j)" has been circulated, but to what extent these defend-
396 ants have no knowledge.

Sixth: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the paragraph marked "27" of Complainants' Bill of Complaint, except that they admit, upon information and belief, that owners and contractors have from time to time been deterred from purchasing so-called non-union trim because of the known attitude of the members of the Brotherhood of Carpen-

ters in refusing on frequent occasions and in various localities to work upon trim which was the product of so-called non-union shops.

Seventh: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the paragraphs marked "28," "29" and "30" of the Complainants' Bill of Complaint.

Wherefore, these defendants demand judgment dismissing the Complainants' Bill of Complaint, with costs. 398

EIDLITZ & HULSE,
Solicitors for above named Defendants,
P. O. & Office Address
No. 31 Nassau Street,
Borough of Manhattan,
New York City.

"Exhibit A."

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CONSTITUTION
AND
BY-LAWS

BUILDING TRADES EMPLOYERS' ASSOCIATION
30-34 West 33rd Street
New York City

April 14th, 1908

CONSTITUTION

400 Answer of Certain Defendants.

ARTICLE I.

Name.

This organization shall be known as the Building Trades Employers' Association of the City of New York.

ARTICLE II.

Purpose.

The objects of this Association shall be to foster
401 the interests of those engaged in the erection and construction of buildings and other structures, to reform abuses relating to the business of persons so engaged, to secure freedom from unjust and unlawful exactions, to obtain and diffuse accurate and reliable information as to all matters affecting such persons, to procure uniformity, harmony and certainty in the relations existing between employers, employees, mechanics and laborers, and in all lawful ways to promote and protect the business interests of the members of this Association, but there is no intention nor shall there be any action on the part of this Association to control or in any
402 way deal with prices or restrict competition.

ARTICLE III.

Qualifications of Membership.

Any person, firm or corporation who or which employs labor in the building industry, or who has his, or which has its individual capital invested in such business, or in any business affiliated therewith, or any person who, on the date of the formation of this Association, was a member in good

standing of the Building Trades Association of the City of New York, shall be eligible to membership.

ARTICLE IV.

Classes of Membership.

Section 1. There shall be four classes of members defined as follows:

1. Represented Member—Any person, firm or corporation holding membership in any Employers' Association represented on the Board of Gover- 404
nors.

2. Individual Member—Any person, firm or corporation manufacturing in the City of New York and vicinity for the building industry, or actively engaged in building in said city, not a member of any Employers' Association represented on the Board of Governors.

3. Associate Member—Any person, firm or corporation engaged directly or indirectly in the building industry of the City of New York and vicinity, not eligible to Represented or Individual Membership. Associate Members hereafter elected shall 405
have no vote.

4. Honorary Member—Any Commissioner or Superintendent of the Departments of the City of New York connected with the building industry, while holding such office, who shall have no vote in Association Meetings.

Section 2. If an Individual or Associate Member becomes a member of an Employers' Associa-

tion represented on the Board of Governors, he shall thereupon become a Represented Member.

Section 3. If an Individual Member ceases to employ labor in the building industry, he may become an Associate Member by a vote of the Board of Governors if eligible under Section 1 of this Article.

Section 4. When an Associate Member becomes an active employer of labor in the building industry, he shall become a Represented or Individual Mem-
407 ber controlled by all the rules governing the election of same.

Section 5. Individual Members are bound by the agreements and conditions which govern the Employers' Association or Associations in the trade or trades in which they are engaged.

Represented members, except those in composite trades, shall belong to the Trade Associations in all trades in which they are regularly employing labor unless refused admission by any Trade Association, in which case they must be governed by all the agreements and conditions which govern said
408 Trade Association.

A Composite Trade is hereby defined to be one requiring the employment of workmen of two or more trades in the completion of any one of the component parts of a building. Composite Trades must be governed by the agreements and conditions of the Employers' Associations in all trades in which they employ labor.

All members of Trade Associations represented on the Board of Governors must be represented members of the Building Trades Employers' Association.

ARTICLE V.

Resignations.

Section 1. The resignation of a represented member from his trade association shall carry with it resignation from this Association, provided he shall have given ninety (90) days' notice in writing to his trade association of his intention to resign; also provided that the Secretary of the trade association shall, upon receipt of same, notify the Secretary of this Association; and further provided that no resignation shall be accepted or become 410
operative during a temporary suspension of work.

Section 2. If a Represented Member belonging to more than one trade association ceases to regularly employ labor in any one trade, he may resign from such trade association if in good standing without giving the ninety (90) days' notice herein called for.

Section 3. No Individual or Associate Member shall be relieved or absolved from the duties, obligations and agreements connected with membership in this Association unless he shall have given ninety (90) days' notice in writing of his intention to 411
resign; whereupon said resignation shall be accepted by the Board of Governors provided that such member is not in arrears for any dues or assessments, and further provided that no resignation shall be accepted or become operative during a temporary suspension of business.

ARTICLE VI.

Officers.

Section 1. The officers of this Association shall

consist of a President, a Vice-President, a Second Vice-President, a Chairman of the Board of Governors, a Secretary and a Treasurer, who, excepting the Secretary, shall be elected by ballot at the Annual Meeting to hold office for one year or until their successors are elected. A majority of all ballots cast shall be necessary for election.

Section 2. The Secretary shall be appointed by and under the control of the Elected Officers of the Association. He shall be under salary, and need not be a member of the Association. The Elected 413 Officers shall have power to fix the amount of his salary subject to the approval of the Board of Governors.

ARTICLE VII.

Board of Governors.

Section 1. There shall be a Board of Governors consisting of three representatives from each of the following Employers' Associations, and such other associations as hereinafter provided for:

Tile, Grate and Mantel Association,
414 The Parquet Flooring Association,
Hoisting Association,
Master Carpenters' Association,
Manufacturing Woodworkers' Association,
Master League of Cement Workers,
Electrical Contractors' Association,
Mason Builders' Association,
Blue Stone Dealers' Association,
Composition Roofers and Waterproofers Employers' Association,
Employers' Association of Roofers and Sheet

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Metal Workers of Greater New York and Adjacent Cities,
Employing Plasterers' Association,
Marble Industry Employers' Association,
Mason Contractors' Association,
Wire Work Manufacturers of New York,
The Lighting Fixtures' Association,
House Movers' and Shorers' Association,
Association of Interior Decorators and Cabinet Makers,
Employers' Association of Architectural Iron Workers, 416
Ornamental Bronze and Iron Masters,
Iron League Erectors' Association,
Association Manufacturers of Metal Covered Doors and Windows,
Mosaic Employers' Association,
Master Steam and Hot-Water Fitters' Association,
Master Painters' and Decorators' Association of the City of New York,
Employing Metal Furring and Lathing Association,
The New York League of Heat and Cold Insulation, 417
Contracting Plumbers' Association of the City of New York,
Employing Stone-Setters' Association,
Elevator Manufacturers' Association,
Greater New York Cut Stone Contractors' Association,
Metal Ceiling Association of New York.

Section 2. Associations having less than three votes on the Board of Governors may be represented by less than three members.

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Section 3. Any Employers' Association, composed of individuals, firms or corporations engaged in the building industry, may make application to said Board of Governors, and upon approval by the Board, the members of said Association shall become represented members of this Association and have the name entered under Section 1 of Article VII of the Constitution upon complying with all the provisions of the Constitution and By-Laws, and be represented on the Board of Governors in the same manner as the above named associations.

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ARTICLE VIII.

Duties of the Board of Governors.

The Board of Governors shall have entire jurisdiction over the affairs and funds of the Association. It shall have control of all Standing Committees, and shall elect by majority vote the members of the House and Finance Committee other than the Chairmen.

The Board of Governors shall have power to decide all controversies, difficulties and differences arising between the members of this Association
420 and their employees; to determine and regulate the conduct of the members of this Association relative to such controversies, difficulties and differences, and to decide all disputes and disagreements arising between employers' associations represented on the Board of Governors and employees' organizations.

Also all controversies, difficulties and differences arising between the different employers' associations represented on the Board; to determine, regulate and control the conduct of such employers'

associations relative to such disputes, difficulties and differences, and generally to determine, regulate and control the conduct of the members of this Association, and the employers' associations represented on the Board in all matters pertaining to their relations with their employees, or in any and all matters affecting the building industry, or the business interests in such building industry of the members of this Association, and for this purpose to make general rules and regulations, provided, however, that where the controversy, difficulty or difference existing affects members of only one employers' association represented on the Board of Governors, the Board of Governors shall take no action except upon the request of the Governors of the association in which the difficulty, difference or controversy exists. They shall have power to delegate any or all of their powers, excepting the imposition of penalties to committees. 422

The decisions, orders, prohibitions and regulations of the Board of Governors shall be final and obligatory upon each and every member of this Association, and shall be complied with, obeyed and observed in good faith by every such member. 423

ARTICLE IX.

Voting Powers and Quorum of Board of Governors.

The representatives of each employers' association shall be entitled to one vote in the Board of Governors for every five (5) members in good standing in such employers' association, such vote to be cast as a unit.

Representatives from sixty (60) per cent. of the

associations represented on the Board shall constitute a quorum for all business, except that of ordering a cessation or resumption of work by any or all of the members of this Association. When the question of ordering a cessation or resumption of work by any or all of the members of the Association is before the Board, representatives from not less than seventy-five (75) per cent. of the associations represented on the Board shall constitute a quorum, and to order a cessation or resumption of work at least four-fifths (4/5) of the vote must be
425 in favor of such an order.

ARTICLE X.

Standing Committees.

Section 1. There shall be the following Standing Committees:

A Board of Officers, consisting of the Elected Officers of the Association. A House Committee, consisting of the Vice-President and six other members. A Finance Committee, consisting of the Second Vice-President and four other members.
426 A Membership Committee, consisting of the Finance and House Committees, and the Board of Officers.

Section 2. There shall be a Committee on Constitution and By-Laws, consisting of a representative from each trade association represented on the Board of Governors.

One-third of the Association shall be represented at a meeting of this Committee to constitute a quorum for the transaction of business.

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ARTICLE XI.

Bonds.

Section 1. In order to insure the compliance with and obedience to the decisions, orders, prohibitions and regulations of the Board of Governors, all represented and individual members shall give bonds to this Association. The form and amount of such bonds shall be determined by and satisfactory to the Board of Governors.

Section 2. The failure of a represented or individual member to sign this Constitution and By-Laws and file bond within thirty (30) days after his election, shall render such election null and void; and such application shall not again be considered until six (6) months thereafter. The bond of a Represented or Individual member shall be renewed before its expiration, or such member shall stand suspended, from the time of the expiration of his bond until the renewal thereof if within thirty (30) days, at the expiration of which time said bond not being renewed such member shall be expelled without a hearing. 428 429

ARTICLE XII.

Contracts with Members.

To promote and maintain harmony between the different trades it is recommended that the members of the Association shall place all orders for work requiring labor at the building in any trade represented on the Board of Governors with members of this Association.

ARTICLE XIII.

Fines and Penalties.

Section 1. The Board of Governors shall have power to suspend, fine or expel members of this Association for any cause which the Board may deem sufficient, but shall not exercise such power until a formal complaint has been received, and ample opportunity for defence given the member complained of.

Section 2. Suspension or expulsion from this
431 Association of a Represented member shall carry with it suspension or expulsion from all the trade associations of which he is a member, but such association or associations shall be given notice, and a hearing prior to such action by the Board.

Section 3. If a Represented member be expelled from a trade association, such trade association shall immediately prefer charges against him in this Association; after a full hearing before a Committee, such charges shall be acted upon by the Board of Governors; if such charges are sustained by the Board of Governors, he shall be expelled
432 from this Association, but if not sustained, the member complained of becomes an Individual member without the payment of initiation fee. If such represented members belongs to more than one trade association, the expulsion from one association if not sustained by the Board of Governors as above outlined, shall not affect his membership in the other trade associations of which he is a member.

Section 4. If a Represented member be suspended by a trade association his name shall be

stricken from the roll of this Association by the Secretary upon receipt of official notice of such action by the trade association, and notice of such action shall be sent to all associations.

Any member whose name is stricken from the roll under this section, may be reinstated by the Secretary at the official request of his trade association, upon the payment of back dues or an amount equivalent to the initiation fee of this Association.

Any member whose name is stricken from the roll under this section, shall have the right of ap- 434
peal to the Board of Governors. If after a hearing before a committee such appeal be sustained by the Board of Governors, the name of the suspended member shall be restored to the roll of this Association, and if refused reinstatement by the trade association which suspended him, he may become an Individual member in that trade without action of the Board of Governors or payment of initiating fee.

Section 5. A suspended member shall be deprived of all privileges and protection of this Association. 435

Section 6. If the name of a Represented member be dropped from the roll of a trade association because of death, failure in business or discontinuance of business, his name shall be removed from the roll of this Association by the Secretary upon receipt of official notice from the trade association.

Section 7. Action under this Article shall require a two-thirds (2/3) vote of the Board of Governors.

ARTICLE XIV.

Trade Associations.

This Constitution and By-Laws shall be binding on all trade associations represented on the Board of Governors.

ARTICLE XV.

Agreements.

All proposed agreements between Associations
437 represented on the Board of Governors and Labor Organizations or between any members of this Association and Labor Organizations must be submitted to and approved by the Board of Governors before being executed.

ARTICLE XVI.

Amendments.

Amendments to this Constitution shall be referred to the Committee on Constitution and By-Laws at least three months prior to a regular meeting. In considering such amendments the Com-
438 mittee shall notify each member of the Association and the Secretary of each trade association of the meeting at which any of the members may be heard regarding the proposed amendments, if they so desire, indicating in such notice the sections to be amended or added. When approved by said Committee such proposed amendment shall be printed and referred to each trade association represented on the Board of Governors, to be voted upon by the members thereof. The vote of the members shall be certified to by the President and Secretary of

each trade association on an official form, and sealed in an official envelope furnished by the Building Trades Employers' Association, and forwarded to its Secretary.

This vote shall be opened and canvassed by the Committee on Constitution and By-Laws, who shall announce the result at the next regular meeting of the Association.

If two-thirds (2/3) of all votes cast are in favor of the proposed amendment it shall be adopted.

440

BY-LAWS.

ARTICLE I.

Meetings.

The meetings of the Association shall be held semi-annually on the second Tuesday of April and October of each year, at 2 P. M.

The April meeting shall be the Annual Meeting. Should the day of the Annual Meeting fall on a holiday, the meeting shall then be held on the following day. 441

ARTICLE II.

Special Meetings.

Special meetings shall be called by the President, through the Secretary upon the written request of twenty-five members, stating fully the object of the meeting or upon the request of the Board of Governors.

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ARTICLE III.

Quorum.

Seventy-five members qualified to vote shall constitute a quorum at meetings of this Association.

ARTICLE IV.

Meetings of the Board of Governors.

Meetings of the Board of Governors shall be held at least once a month, or upon twenty-four hours'
443 notice on the written request to the Secretary by the representatives of any Employers' Association, or may be called by the Chairman.

ARTICLE V.

Order of Business.

Reading of the Minutes.
Reading of Communications.
Reports of Officers.
Reports of the Board of Governors.
Reports of Standing and Special Committees.
444 Unfinished Business.
New Business.

ARTICLE VI.

Duties of Officers.

Section 1. The President shall preside at all meetings of the Association. He shall be ex-officio member of all committees. He shall countersign all checks and drafts for money.

Section 2. The Vice-President shall be Chair-

man and a member of the House Committee. He shall assist the President in the discharge of his duties and in his absence shall perform the duties of President.

Section 3. The Second Vice-President shall be Chairman and a member of the Finance Committee. He shall assist the President in the discharge of his duties and in the absence of President and Vice-President shall perform the duties of the President.

Section 4. The Chairman of the Board of Governors shall preside at all meetings of the Board. 446
The President, Vice-Presidents and Treasurer shall be members ex-officio of the Board of Governors.

Section 5. The Secretary shall attend each meeting of the Association and the Board of Governors, and keep the minutes of the proceedings and conduct the correspondence of the Association and execute all business that he may be officially instructed or authorized to perform. He shall notify all members of the meetings of the Association and of the Board of Governors, and also notify all persons, firms and corporations of their election to membership and keep a register of the membership. 447
He shall, with the sanction of the Board of Officers, be permitted to employ whatever help may be required for the proper performance of his duties.

Section 6. The Treasurer shall collect all fees, dues, fines and such other monies as may be due the Association, and shall keep in books suitable for the purpose a correct account of the same. All monies received by him shall be immediately deposited in the name of the Association in such bank or trust company as may be designated by the

Finance Committee, and shall not be drawn upon except by a check signed by him as Treasurer, and countersigned by the President. He shall pay all bills and other indebtedness when ordered so to do by the Chairman of the Finance Committee, and shall make a detailed report at the meetings of the Association. He shall keep a separate account of each member's and association's financial relation with this Association. His accounts shall be audited quarterly by the Finance Committee. He shall, with the sanction of the Finance Committee,
449 be permitted to employ whatever help may be required for the proper performance of his duties. He shall furnish a bond to the Association satisfactory in form and amount to the Board of Governors.

ARTICLE VII.

Duties of Standing Committees.

Section 1. The Membership Committee shall receive and investigate all applications and pass on the eligibility of individual, associate and honorary members. They shall report to the Board of Gover-
450 nors, who shall act on said application. The election of said applicant shall require the same vote as that required for the cessation of work. (See Article X). They shall not consider any application for individual membership until after forty-five (45) days' notice of such application has been given to the Secretaries of the Employers' Association through which applicant could have become a Represented member. Five shall constitute a quorum of this Committee.

Section 2. The House Committee shall meet at

least once a month, and shall manage all matters relative to the Association quarters. It shall order supplies, regulate prices, receive complaints, and shall have the exclusive right to appoint and dismiss employees except as otherwise herein provided. It shall have general charge of the personal property of the Association. It shall have the power to make the necessary House Rules, which shall be published as an addendum to these By-Laws.

Section 3. The Finance Committee shall have supervision over the Financial affairs of the Association, and shall examine and audit the accounts 452
of the Treasurer at least once each quarter, and report to the Association at the Semi-Annual and Annual Meetings and to the Board of Governors when requested.

It shall be the duty of the Finance Committee to investigate and report to the Board of Governors on all applications for funds, to employ, discharge and fix the salaries of employees in the bookkeeping department, and to perform other duties connected with the financial affairs of the Association as directed by the Board of Governors.

The Chairman of the Finance Committee shall 453
sign all vouchers approved by the Finance Committee before payment is made by the Treasurer.

Section 4. The Committee on Constitution and By-Laws shall meet at least twice each year, on the first Tuesday of December and June.

Section 5. The Board of Officers shall serve in the capacity of an Executive Committee and shall perform duties of that nature between meetings of the Board of Governors, and such other duties as may be referred to them by the Board.

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ARTICLE VIII.

Fees and Dues.

Section 1. Represented Members—The initiation fee of a Represented Member shall be $25, payable in advance by the Employers' Association of such member.

If the Board of Governors deem it for the best interests of this Association, the initiation fee may be reduced or waived in the case of applicants for
455 admission to any Association represented on the Board, by two-thirds vote at any meeting of the Board of Governors, but no such action shall be taken except at the official written request of the Association interested.

Section 2. Individual Membership—The initiation fee for Individual Membership shall be $50, payable in advance. If an applicant for Individual Membership is engaged in the same line of business as the members of any employers' associations represented on the Board of Governors, he shall pay in addition to the above fee the initiation re-
456 quired by said employers' associations through which he could have become a represented member.

Section 3. Associate Membership—The initiation fee for Associate Membership shall be $25, payable in advance.

Section 4. The annual dues of Represented Members shall be $40 per year, payable quarterly, in advance, on the first day of April, July, October and January by the Employers' Association of which he is a member.

These dues may be reduced in special cases at

the discretion of the Board of Governors when deemed for the best interests of the Association. Such action may be taken by a two-thirds vote at any meeting of the Board of Governors provided the Board shall have received from the Association interested an official written request for such action.

In case the dues of members of any Association are reduced under this By-Law, the voting power of said Association in the Board of Governors for such members shall be in the same ratio as the reduced dues bear to the regular dues of represented 458 members.

Section 5. The annual dues of Individual Members shall be $40 per year, payable quarterly, in advance, on the first day of April, July, October and January, but if engaged in the same line of business as the members of any employers' association or associations represented on the Board of Governors, he shall pay in addition to the above dues, the dues required by said employers' association or associations through which he could have become a Represented Member.

Section 6. The annual dues of Associate Mem- 459 bers shall be $40 payable quarterly, in advance, on the first day of April, July, October and January.

Section 7. Dues of new members shall date from the signing of the Constitution and shall be paid pro rata for the unexpired portion of the quarter.

ARTICLE IX.

Nominating Committee.

The Association at its October meeting, shall

460 elect a Nominating Committee consisting of seven (7) members. It shall be the duty of the Nominating Committee to nominate a ticket to be voted for at the annual meeting of the Association, to fill all elective offices of the Association. Such nominations shall be posted for a period of thirty (30) days prior to the annual election, and at the same time notice mailed to each member. This shall be known as the regular ticket of the Association. Any opposition nominations must be posted at least twenty (20) days prior to the election, and at
461 the same time notice forwarded to each member. This ticket shall be known as the opposition ticket.

ARTICLE X.

Inspectors of Election.

At the October meeting of the Association of each year the President shall appoint, with the consent of the Association, three (3) members as Inspectors of Election, who shall continue to hold office until successors are appointed.

ARTICLE XI.

462

Annual Election of Officers.

The annual election of officers shall be held at the Association quarters. For such purpose the polls shall be open from 11 A. M. until 3 P. M. on the day of the annual meeting. On the closing of the polls the Inspectors of Election shall immediately proceed to canvass the votes cast, and continue until the same is complete, and they shall certify over their signatures the result of such canvass, which certificate shall be presented at the an-

nual meeting, and upon it appearing by such certificate that the balloting has resulted in a lawful choice of the officers, it shall be the duty of the presiding officer to announce the result, and direct that the officers so elected shall assume the duties of their respective positions immediately.

ARTICLE XII.

Removal of Officers.

Any officer may be removed by the three-fourths vote of the members of the Association present at 464
any meeting, or any member of an elected committee may be removed by a three-fourths vote of the Board of Governors present at any meeting, provided specific charges shall be presented in writing at a meeting thereof, a copy of which charges shall be served upon the officer or member of an elected committee so charged at least twenty (20) days previous to such action by the Association.

ARTICLE XIII.

In case of a vacancy among the Elected Officers, such vacancy may be filled for the unexpired term 465
by a majority vote of the Board of Governors.

ARTICLE XIV.

Arrears.

Any Employers' Association represented on the Board of Governors refusing or neglecting to pay its indebtedness to the Association for dues, fees or fines for sixty days after the date on which the same shall become due and payable, shall lose its representation on the Board of Governors, but may

be reinstated by the Board of Governors upon payment of all arrears to date.

Any member refusing or neglecting to pay his indebtedness to the Association for dues, fees or fines for sixty days after the date on which the same shall become due and payable, shall forfeit his membership in the Association, but may be reinstated by the Board of Governors upon payment of all arrears to date.

ARTICLE XV.

467 DELINQUENT ATTENDANCE.

All members of the Board of Governors are required to attend every meeting, regular and special, for which at least three (3) days' notice has been sent out by the Secretary for a Regular Meeting, and one (1) day's notice for a special meeting. A fine of Five (5) Dollars shall be imposed for non-attendance. Such fine may be remitted by the Board of Governors only when such absence has been caused by accident or illness.

ARTICLE XVI.

468 AMENDMENTS.

Amendments to these By-Laws may be made in the same manner as provided for in Article XV of the Constitution, but the By-Laws may be suspended at any meeting by unanimous vote. When not otherwise provided, Cushing's Manual shall govern the proceedings of this Association and the Board of Governors.

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UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIMITED, and Others, Complainants,	
against	In Equity.
ELBRIDGE H. NEAL and Others, Defendants.	470

The defendants, MURRAY & HILL COMPANY, HARLEM RIVER LUMBER & WOODWORKING COMPANY, EMPIRE CITY-GERARD COMPANY, and JAMES C. FORBES, for their answer herein, respectfully show to the Court as follows:

First: These defendants deny any knowledge or information sufficient to form a belief as to each and every the allegations contained in the paragraphs marked "1," "2," "3," "4," "5," "6," "7," "9," "10," "11," "12," "13," "15," "16," "17" and "18" of the Complainants' Bill of Complaint. 471

Second: Upon information and belief, these defendants deny the allegations contained in the paragraph marked "22" of the Complainants' Bill of Complaint, except that they admit that the defendants described as "Contractors" in the Complainants' Bill of Complaint are members of the Building Trades Employers' Association, and ex-

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cept that they admit and allege that the relationship between the Building Trades Employers' Association and the other trade associations is defined in the Constitution and By-Laws of the Building Trades Employers' Association, a copy of which is annexed hereto and marked "Exhibit A"; and except that they admit and allege that the plan known as the "Joint Arbitration Plan" annexed to the Complainants' Bill of Complaint was heretofore adopted by the Building Trades Employers' Association and various unions parties thereto; and
473 except that they admit that the said Arbitration Plan continued in existence up to January, 1910, at which time the operation of the said plan was discontinued.

Third: These defendants deny the allegations contained in the paragraph marked "23" of the Complainants' Bill of Complaint, except that they allege that Murray & Hill Company, Harlem River Lumber & Woodworking Company, Empire City-Gerard Company, and James C. Forbes are members of an unincorporated association known as the Manufacturing Woodworkers' Association of New
474 York and Vicinity; and except that they admit that the last named defendants are members of the Building Trades Employers' Association; and except that they admit that the Empire City-Gerard Company, Harlem River Lumber & Woodworking Company and Murry & Hill Company are domestic corporations having their principal offices in the City of New York.

Fourth: These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the para-

graph marked "24" of the Complainants' Bill of Complaint.

Fifth: These defendants deny each and every of the allegations contained in the paragraph marked "25" of the Complainants' Bill of Complaint, and allege, upon information and belief, that these complainants are themselves members of two unlawful combinations, namely, an unincorporated association known as the Veneered Door Association and unincorporated association known as the Eastern Door, Sash and Blind Manufacturers' As- 476
sociation, and that these complainants, upon information and belief, have from time to time for several years last past met the other members of said associations and fixed the prices at which they would sell their products, and did again, no later than February, 1911, meet with the other members of said associations, which latter are engaged in the same kind of business and in selling the same character of products as the complainants, and fixed the prices at which they would sell their products. That said last mentioned meetings of the said two associations were held in the City of New York, and that these complainants, together with other 477
members of the said associations at said meetings agreed among themselves upon the prices at which they would sell their products. That said agreements by which said prices were fixed was for the purpose of preventing competition among the complainants and among all of the members of said two unincorporated associations, and that competition in the State of New York in the price of the products produced by the complainants and the other members of the said associations are by said

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agreements restrained and prevented, and that said agreements to fix prices directly and necessarily operates in restraint of trade or commerce among the several states.

Sixth: These defendants deny each and every of the allegations contained in the paragraph marked "26" of the Complainants' Bill of Complaint which precedes subdivision "(a)" thereof. These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allega-
479 tions contained in the subdivisions "(a)," "(b)," "(c)" and "(d)" of the paragraph marked "26" of the Complainants' Bill of Complaint. These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in subdivisions "(e)" and "(f)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that they admit, upon information and belief, that members of the United Brotherhood of Carpenters have from time to time given notice that they would refuse to work, and have refused to work, on buildings because wood materials produced by certain so-
480 called non-union manufacturers were being or were about to be used or installed in said buildings; and except that they deny that they are parties to any conspiracy whatever. These defendants deny each and every of the allegations contained in subdivision "(g)" of the said paragraph marked "26," except that they admit, upon information and belief, that for several months prior to October 30, 1909, the United Brotherhood of Carpenters refused to enter into any trade agreement with the Master Carpenters' Association unless the said Master Car-

penters' Association would embody in said proposed agreement a clause substantially as appears in Article IV in the present trade agreement annexed to the Complainants' Bill of Complaint marked "Exhibit B," and except that they admit, upon information and belief, that the Master Carpenters' Association made the said trade agreement annexed to the Complainants' Bill of Complaint marked "Exhibit B." These defendants deny each and every of the allegations contained in the subdivision "(h)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that they admit that the Manufacturing Woodworkers' Association of New York and Vicinity entered into a trade agreement, a copy of which is annexed to the Complainants' Bill of Complaint marked "Exhibit C," and except that they admit that the said agreement is still in operation and except that they deny any knowledge or information sufficient to form a belief as to what agreements other manufacturing woodworkers may have entered into. These defendants deny any knowledge or information sufficient to form a belief as to each and every of the allegations contained in subdivisions "(i)," "(j)" and "(k)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that they deny that they have ever circulated or have ever had any connection, directly or indirectly, with the circulation of any so-called "Unfair Lists," and except that they deny that they have ever circulated or had anything to do, directly or indirectly, with the circulation of any notice such as is set out in subdivision "(j)" of said paragraph marked "26" of the Complainants' Bill of Complaint, and except that they admit,

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upon information and belief, that such a notice as is set forth in said subdivision "(j)" has been circulated, but to what extent these defendants have no knowledge.

Seventh: These defendants deny each and every of the allegations contained in the paragraph marked "27" of the Complainants' Bill of Complaint, except that they admit, upon information and belief, that owners and contractors have from time to time been deterred from purchasing so-
485 called non-union trim because of the known attitude of the members of the Brotherhood of Carpenters in refusing on various occasions and in various localities to work upon trim which was the product of so-called non-union shops.

Eighth: These defendants deny each and every of the allegations contained in the paragraphs marked "28" of the Complainants' Bill of Complaint.

Ninth: As to paragraph marked "29" of the Complainants' Bill of Complaint, these defendants deny
486 that they have entered into any conspiracy whatever and therefore deny that the plaintiff is entitled to any relief either at law or in equity.

Tenth: These defendants deny each and every of the allegations contained in the paragraph marked "30" of the Complainants' Bill of Complaint.

Wherefore, defendants demand judgment dismissing the Complainants' Bill of Complaint, with costs.

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D. CADY HERRICK,
Solicitor for Defendants Murray & Hill Co., Harlem River Lumber & Woodworking Co., Empire City-Gerard Co. and James C. Forbes,
P. O. & Office Address,
No. 5 Nassau Street,
Borough of Manhattan,
New York City.

UNITED STATES OF AMERICA
STATE AND COUNTY OF NEW YORK, } ss.: 488
Southern District of New York,

JAMES MURRAY, being duly sworn, says: that he is the President and an officer of Murray & Hill Company, one of the defendants above named; that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

That the reason why this verification is made by deponent and not by the defendant above named is that the said defendant is a corporation and that 489
the grounds of deponent's belief as to all matters not therein stated to be alleged on his own knowledge are investigations made and information acquired by deponent in the course of his duties as such officer aforesaid.

JAMES MURRAY.

490

Sworn to before me this 18th day of April, 1911.

MAUD METCALFE,

[SEAL] Notary Public No. 173, Kings Co.
Certificate filed in N. Y. Co.
N. Y. Co. Register's Certificate No. 3149.

UNITED STATES OF AMERICA
STATE AND COUNTY OF NEW YORK, } ss.:
Southern District of New York,

GEORGE STARK, being duly sworn, says: that he
491 is the Secretary and Treasurer and an officer of Harlem River Lumber & Woodworking Company, one of the defendants above named; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

That the reason why this verification is made by deponent and not by the defendant above named is that the said defendant is a corporation and that the grounds of deponent's belief as to all matters
492 not therein stated to be alleged on his own knowledge are investigations made and information acquired by deponent in the course of his duties as such officer aforesaid.

GEORGE STARK.

Sworn to before me this 18th day of April, 1911.

MAUD METCALFE,

[SEAL] Notary Public No. 173, Kings Co.
Certificate filed in N. Y. Co.
N. Y. Co. Register's Certificate No. 3149.

Answer of Certain Defendants. 493

UNITED STATES OF AMERICA
STATE AND COUNTY OF NEW YORK, } ss.:
Southern District of New York,

DAVID W. O'NEIL, being duly sworn, says: that he is the President and an officer of the defendant Empire City-Gerard Company, one of the defendants above named; that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes 494
it to be true.

That the reason why this verification is made by deponent and not by the defendant above named is that the said defendant is a corporation and that the grounds of deponent's belief as to all matter not therein stated to be alleged on his own knowledge are investigations made and information acquired by deponent in the course of his duties as such officer aforesaid.

DAVID W. O'NEIL.

Sworn to before me this 18th day of April, 1911. } 495

MAUD METCALFE,
[SEAL] Notary Public No. 173, Kings Co.
Certificate filed in N. Y. Co.
N. Y. Co. Register's Certificate No. 3149.

UNITED STATES OF AMERICA
STATE AND COUNTY OF NEW YORK, } ss.:
Southern District of New York,

JAMES C. FORBES, being duly sworn, deposes and says: that he is one of the defendants above named;

that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

JAMES C. FORBES.

Sworn to before me this 18th day of April, 1911.

MAUD METCALFE,
[SEAL] Notary Public No. 173, Kings Co.
Certificate filed in N. Y. Co.
N. Y. Co. Register's Certificate No. 3149.

ANSWER OF DAVID W. O'NEIL.

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIMITED, and Others, Complainants,	
against	In Equity.
ELBRIDGE H. NEAL and Others, Defendants.	

The defendant, DAVID W. O'NEIL, for his answer herein, respectfully shows to the Court as follows:

Answer of David W. O'Neil. 499

First: This defendant denies any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the paragraphs marked "1," "2," "3," "4," "5," "6," "7," "9," "10," "11," "12," "13," "15," "16," "17" and "18" of the Complainants' Bill of Complaint.

Second: Upon information and belief, this defendant denies the allegations contained in the paragraph marked "22" of the Complainants' Bill of Complaint, except that he admits that the defendants described in the Complainants' Bill of Complaint as "Contractors" are members of the Building Trades Employers' Association; and except that he admits and alleges that the relationship between the Building Trades Employers' Association and the other trade associations is defined in the Constitution and By-Laws of the Building Trades Employers' Association, a copy of which is annexed hereto and marked "Exhibit A"; and except that he admits and alleges that the plan known as the Joint Arbitration Plan annexed to the Complainants' Bill of Complaint was heretofore adopted by the Building Trades Employers' Association and various unions parties thereto; and except that he admits that the said Arbitration Plan continued in existence up to January, 1910, at which time the operation of the said plan was discontinued. 500 501

Third: This defendant denies the allegations contained in the paragraph marked "23" of the Complainants' Bill of Complaint, except that he alleges that Murray & Hill Company, Harlem River Lumber & Woodworking Company, Empire City-Gerard Company and James C. Forbes are members of an incorporated association known as the Manufac-

502 Answer of David W. O'Neil.

turers Woodworkers' Association of New York and Vicinity, and that except that he admits that the said last named defendants are members of the Building Trades Employers' Association, and except that he admits that the Empire City-Gerard Company, the Harlem River Lumber and Woodworking Company and Murray & Hill Company are domestic corporations having their principal offices in the City of New York.

Fourth: This defendant denies any knowledge or information sufficient to form a belief as to each
503 and every of the allegations contained in the paragraph marked "24" of the Complainants' Bill of Complaint.

Fifth: This defendant denies each and every of the allegations contained in the paragraph marked "25" of the Complainants' Bill of Complaint, and alleges, upon information and belief, that these complainants are themselves members of two unlawful combinations, namely, an unincorporated association known as the Veneered Door Association and an unincorporated association known as the Eastern Door, Sash and Blind Manufacturers'
504 Association, and that these complainants, upon information and belief, have from time to time for several years last past met the other members of said associations and fixed the prices at which they would sell their products, and did again, no later than February, 1911, meet with the other members of the said associations, which latter are engaged in the same kind of business and in selling the same character of products, and fixed the prices at which they would sell their products. That said last mentioned meetings of the said two associations were

held in the City of New York and that these complainants, together with other members of the said associations at said meetings agreed among themselves upon the prices at which they would sell their products. That said agreements by which said prices were fixed was for the purpose of preventing competition among the complainants and among all of the members of the said two unincorporated associations and that competition in the State of New York in the price of the products produced by the complainants and the other members of the said associations are by said argeements 506 restrained and prevented and that said agreements to fix prices directly and necessarily operates in restraint of trade or commerce among the several states.

Sixth: This defendant denies each and every of the allegations contained in the paragraph marked "26" of the Complainants' Bill of Complaint which precedes sub-division "(a)" thereof. This defendant denies any knowledge or information sufficient to form a belief as to each and every of the allegations contained in the sub-division "(a)," "(b)," "(c)" and "(d)" of the paragraph marked "26" of 507 the Complainants' Bill of Complaint. This defendant denies any knowledge or information sufficient to form a belief as to each and every of the allegations contained in sub-divisions "(e)" and "(f)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that he admits, upon information and belief, that members of the United Brotherhood of Carpenters have from time to time given notice that they would refuse to work, and have refused to work in buildings because wood ma-

terials produced by certain so-called non-union manufacturers were being or were about to be used or installed in said buildings, and except that he denies that he is a party to any conspiracy whatsoever. This defendant denies each and every of the allegations contained in the sub-division "(g)" of the said paragraph marked "26" of the Complainants' Bill of Complaint, except that he admits, upon information and belief, that for several months prior to October 30, 1909, the United Brotherhood of Carpenters refused to enter into any trade agree-
509 ment with the Master Carpenters' Association unless said Master Carpenters' Association would embody in said proposed agreement a clause substantially as appears in Article IV in the present trade agreement annexed to the Complainants' Bill of Complaint marked "Exhibit B"; and except that he admits, upon information and belief, that the Master Carpenters' Association made the said agreement annexed to the Complainants' Bill of Complaint marked "Exhibit B." This defendant denies each and every of the allegations contained in the sub-division "(h)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that
510 he admits that the Manufacturing Woodworkers' Association of New York and Vicinity entered into a trade agreement, a copy of which is annexed to the Complainants' Bill of Complaint marked "Exhibit C," and except that he admits that the said agreement is still in operation and except that he denies any knowledge or information sufficient to form a belief as to what agreements other manufacturing woodworkers may have entered into. This defendant denies any knowledge or information sufficient to form a belief as to each and every

of the allegations contained in the sub-divisions "(i)," "(j)" and "(k)" of said paragraph marked "26" of the Complainants' Bill of Complaint, except that he denies that he has ever circulated or ever had any connection, directly or indirectly, with the circulation of any so-called unfair lists, and except that he denies that he has ever circulated or had anything to do, directly or indirectly, with the circulation of any notice such as is set forth in sub-division "(j)" of said paragraph marked "26" of the Complainants' Bill of Complaint; and except that he admits, upon information and belief, that 512
such a notice as is set forth in said sub-division "(j)" has been circulated, but to what extent this defendant has no knowledge.

Seventh: This defendant denies each and every of the allegations contained in the paragraph marked "27" of the Complainants' Bill of Complaint, except that he admits, upon information and belief, that owners and contractors have from time to time been deterred from purchasing so-called non-union trim because of the known attitude of the members of the Brotherhood of Carpenters in refusing on various occasions and in various localities to work 513
upon trim which was the product of so-called non-union shops.

Eighth: This defendant denies each and every the allegations contained in the paragraph marked "28" of the Complainants' Bill of Complaint.

Ninth: As to paragraph marked "29" of the Complainants' Bill of Complaint, this defendant denies that he has entered into any conspiracy whatever and therefore denies that the plaintiff is entitled to any relief at law or in equity.

514 Answer of David W. O'Neil.

Tenth: This defendant denies each and every of the allegations contained in the paragraph marked "30" of the Complainants' Bill of Complaint.

Wherefore defendant demands judgment dismissing the Complainants' Bill of Complaint, with costs.

D. CADY HERRICK,
Solicitor for Defendant David W. O'Neil,
P. O. & Office Address,
No. 5 Nassau Street,
515 Borough of Manhattan,
New York City.

UNITED STATES OF AMERICA
STATE AND COUNTY OF NEW YORK, } ss.:
Southern District of New York,

DAVID W. O'NEIL, being duly sworn, deposes and says: that he is one of the defendants in the above entitled action; that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and
516 belief, and as to those matters he believes it to be true.

DAVID W. O'NEIL.

Sworn to before me this 18th day of April, 1911.

MAUD METCALFE,
[SEAL] Notary Public No. 173, Kings Co.
Certificate filed in N. Y. Co.
N. Y. Co. Register's Certificate No. 3149.

Answer of James Elgar, Inc. 517

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et al.*, Complainants,	
vs.	In Equity.
ELBRIDGE H. NEAL, *et al.*, Defendants.	518

The answer of JAMES ELGAR, INC., one of the defendants to the bill of complaint of Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door and Lumber Company:

This defendant, now and at all times hereafter saving to itself all and all manner of benefit of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in the said bill contained, for answer thereto, or to so much thereof as this defendant is advised it is material or necessary to make answer to, answering says: 519

I. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 1 of the bill and cannot form any belief with respect thereto.

520 Answer of James Elgar, Inc.

II. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 2 of the bill and cannot form any belief with respect thereto.

III. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 3 of the bill and cannot form any belief with respect thereto.

IV. Defendant denies that it has any knowledge or information sufficient to form a belief as to the
521 allegations contained in paragraph 4 of the bill and cannot form any belief with respect thereto.

V. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 5 of the bill, and cannot form any belief with respect thereto.

VI. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paraghaph 6 of the bill, and cannot form any belief with respect thereto and calls upon complainants for proof with respect to the facts therein stated.

522 VII. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 7 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that this defendant denies that it has ever described or characterized plaintiffs as operating unfair, non-union or open shops or mills.

VIII. Defendant admits that products and mer-

chandise such as are described in the bill to be manufactured by complainants, require the services of skilled carpenters for their proper installation in buildings. Defendant denies that it has any knowledge or information sufficient to form a belief as to the remaining allegations contained in paragraph 8 of the bill and cannot form any belief with respect thereto and calls upon complainants for proof with respect to the facts therein stated.

IX. Defendant denies that it has prevented, obstructed or interfered with complainants in the 524
sale of their merchandise for sale, delivery, use or installation in the City of Greater New York and Vicinity, or in any other manner obstructed, prevented or interfered with complainants in the sale or use of their products. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations of paragraph 9 of the bill, except as herein expressly denied, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

X. Defendant denies that it has any knowledge 525
or information sufficient to form a belief as to the allegations contained in paragraph 10 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that defendant believes there has been an association of workingmen formed styled "United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America."

XI. Defendant denies that it has any knowledge

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or information sufficient to form a belief as to the allegations contained in paragraph 11 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XII. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 12 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect
527 to the facts therein stated.

XIII. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 13 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XIV. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 14 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with re-
528 spect to the facts therein stated.

XV. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 15 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XVI. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 16 of the bill, and cannot form any belief with respect there-

to, and calls upon complainants for proof with respect to the facts therein stated.

XVII. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 17 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XVIII. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 18 of the 530
bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XIX. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 19 of the bill, and cannot form any belief with respect thereto, except that it admits that it is a corporation organized and existing under and by virtue of the Laws of the State of New York.

XX. Defendant denies that it has any knowledge or information sufficient to form a belief as to the 531
allegations contained in paragraph 20 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that defendant admits that it is engaged in business as a contractor and requires in and about the conduct of its business the purchase and use of doors, frames, sashes and various kinds of wood trim.

XXI. Defendant denies the allegations con-

532 Answer of James Elgar, Inc.

tained in paragraph 21 of the bill, except that defendant admits that it is a member of an association styled the "Master Carpenters' Association of the City of New York" and that said association has its principal offices in the City of New York.

XXII. Defendant denies the allegations contained in paragraph 22 of the bill, except that:

Defendant admits that it is a member of an association of employers known as the "Building Trades Employers' Association."

533 Defendant admits that said Building Trades Employers' Association adopted a certain arbitration plan, but whether "Exhibit A" annexed to the bill is a true copy of said plan, defendant is unable to state, and begs leave to refer to the original thereof to be produced upon the trial of this action and calls upon complainants to prove the fact with reference thereto.

Defendant admits that said arbitration plan has been discontinued.

XXIII. Defendant denies that it has any knowl-
534 edge or information sufficient to form a belief as to the allegations contained in paragraph 23 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XXIV. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 24 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

535

XXV. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 25 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XXVI. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 26 of the bill which precedes sub-division "a" thereof, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that this defendant denies that it has ever conspired, or entered into or formed part of any conspiracy, to prevent the conduct of interstate or other business, of these complainants or any employer of non-union journeymen carpenters.

536

(a) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "a" of paragraph 26 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

537

(b) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "b" of paragraph 26 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

(c) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "c" of para-

graph 26 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

(d) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "d" of paragraph 26 of the bill, and cannot form any belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

(e) Defendant denies that it has any knowledge
539 or information sufficient to form a belief as to the allegations contained in sub-division "e" of paragraph 26 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that this defendant denies that it has ever conspired or engaged in any of the acts therein referred to.

(f) Defendant denies the allegations contained in sub-division "f" of paragraph 26 of the bill, except that defendant admits that certain individuals, whom defendant is informed and believes are members of the Brotherhood of Carpenters, have from
540 time to time given notice to defendant that they would refuse to work upon buildings because wood materials produced by certain so-called non-union manufacturers were being or were about to be installed in said buildings.

(g) Defendant denies the allegations contained in sub-division "g" of paragraph 26 of the bill, except that defendant alleges that it is informed and believes that a contract was made between certain parties professing to act for the Master Carpen-

ters' Association and the Joint District Council, but whether "Exhibit B" attached to the bill is a true copy thereof, defendant is unable to state, and begs leave to refer to the original thereof to be produced upon the trial of this action and calls upon complainants for proof with respect thereto.

(h) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "h" of paragraph 26 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for 542
proof with respect to the facts therein stated.

(i) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "i" of paragraph 26 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

(j) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "j" of paragraph 26 of the bill, and cannot form a belief with 543
respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that defendant admits that it has received a communication similar to that set forth. Defendant alleges that it received such communication many months before the filing of this bill, and has lost or mislaid said communication and has not the same in its possession, and defendant is therefore unable to state whether the communication set forth in the bill is a true copy thereof, and therefore calls upon complainants for proof with respect thereto.

544 Answer of James Elgar, Inc.

(k) Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in sub-division "k" of paragraph 26 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated.

XXVII. Defendant denies the allegations contained in paragraph 27 of the bill.

XXVIII. Defendant denies that it has any knowledge or information sufficient to form a belief as to
545 the allegations contained in paragraph 28 of the bill, and cannot form a belief with respect thereto, and calls upon complainants for proof with respect to the facts therein stated, except that defendant denies that it has ever entered into any combination or conspiracy to obstruct, molest, injure or interfere with complainants or their business in any manner whatever.

XXIX. Defendant denies that it has any knowledge or information sufficient to form a belief as to the allegations contained in paragraph 29 of the bill, and cannot form a belief with respect thereto,
546 and calls upon complainants for proof with respect to the facts therein stated.

XXX. Defendant denies the allegations contained in paragraph 30 of the bill.

XXXI. Defendant further denies each and every allegation in the bill contained not heretofore expressly admitted, and defendant particularly denies all and all manner of unlawful combination wherewith it is by the said bill charged.

Answer of James Elgar, Inc. 547

WHEREFORE, defendant prays this honorable Court for judgment that it be hence dismissed with its reasonable costs and charges, and for such other and further relief as may be just and in accordance with equity.

JAMES ELGAR, INC.,
By JAMES ELGAR,
Vice-Pres.

CHARLES J. HARDY,
Solicitor for Defendant,
James Elgar, Inc. 548

549

550 Replication of Complainants.

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et als.*, Complainants, *against* ELBRIDGE H. NEAL, etc., *et als.*, Defendants.	In Equity.

551

These replicants, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company, saving and reserving to themselves all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendants El-
552 bridge H. Neal, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; Wallace Anderson, Henry W. Blumenberg, Thomas Dalton, Frederick Dhuy, John T. Donovan, Henry Erickson, David French, Matthew C. Heinen, Alexander Kelso, George Lynch, Albert W. Leek, James Martin, Richard Mortan, August Nagel, Frank Norton, William O'Grady, Charles

Peterson, Conrad C. Swenson, individually and as business agents of said Joint District Council of New York and Vicinity; Charles H. Bausher, individually and as business agent of said Joint District Council, and as a member of the General Executive Board of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America; and Harry L. Cook, individually and as organizer of the said United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America, for replication thereunto saith that they doth and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive and insufficient in law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed, or avoided, traversed or denied, is true; all which matters and things these replicants are ready to aver, maintain and prove as this honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

WALTER GORDON MERRITT,
Solicitor for Complainants.

556 Replication of Complainants.

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et als.*, Complainants, *against*	In Equity.
557 ELBRIDGE H. NEAL, etc., *et als.*, Defendants.	

These replicants, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company, saving and reserving to themselves all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendants C. F.
558 Bond Company, Robert Christie & Son, Inc., P. J. Carlin Construction Company, Charles A. Cowen & Company (sued herein as Charles A. Cowen and Company, Inc.), Ellison Construction Company, Fountain & Choate, Inc., Hugh Getty, Inc., Hedden Construction Company, George L. Hiltl Company, James C. Hoe's Sons, Inc., The Jones Construction Company (sued herein as Jones Construction Company), C. W. Klappert's Sons, Inc., James MacArthur Company, George Mulligan Company, E. E. Paul Company, Pottier & Stymus

Company, Andrew J. Robinson Company, John V. Schaefer, Jr. & Company, Inc., Sloane & Moller, Inc., Howard J. Smith & Son, Inc., John Thatcher & Son (sued herein as John Thatcher & Son, Inc.), Tidewater Building Company, Tucker & Vinton (sued herein as Tucker & Vinton, Inc.), Turner Construction Company, Wakeham & Miller (sued herein as Wakeham & Miller, Inc.), Richard L. Walsh Company, Watt & Sinclair, Inc., Whitney-Steen Company, Charles T. Wills, Inc., William Young Company, George A. Fuller Company, The Roebling Construction Company (sued herein as 560
Roebling Construction Company), J. C. Vreeland Building Company, The Norcross Brothers Company, Schweizer & West Manufacturing Company, Hiram A. Akerly, Stephen Ball, Jacob Balz, Alfred Beinhauer, Paul Benzenberg, John H. Carl, Robert B. Ferguson, Patrick Gallagher, A. Grushkin (sued herein as A. Gruskin), George Hildebrand, John Hurley, A. G. Imhof, Edward Jeans, David Kraus, John H. MacDonald, Ranald H. MacDonald, William Mackenzie (sued herein as William McKenzie), Louis Mader, William S. Miller, Donald Mitchell, George N. Morrison, Isidore Rosenfeld, Frank H. Rush, William Somerville, 561
Walter E. Thompson, Joseph Wagner, J. Odell Whitenack, Jacob A. Zimerman, Henry J. Brown and Abram H. Brown, co-partners, doing business under the firm name of Henry J. Brown & Son, Max Davis and Philip Davis, co-partners, doing business under the firm name of M. Davis & Son, Joseph A. Duffy and Francis Collin, co-partners, doing business under the firm name of Duffy & Collin, Otto M. Eidlitz and Robert J. Eidlitz, co-partners, doing business under the firm name of Marc

562 Replication of Complainants.

Eidlitz & Son (but referred to in the Complainants' Bill of Complaint as Mark Eidlitz & Son), Alexander H. Hamilton, doing business under the trade name of John L. Hamilton & Sons, Elizabeth G. Hantsche and Emil G. Hantsche, Jr., co-partners, doing business under the firm name of E. G. Hantsche & Company, James S. Herrman, doing business under the trade name of Philip Herrman's Son, Samuel H. E. Jennings and Thomas A. Welstead, co-partners, doing business under the firm name of Jennings & Welstead, James F. Kerr and
563 Kasmir Krenkel, co-partners, doing business under the firm name of Kerr & Krenkel, Leopold Kantor and Joseph B. Cooper, co-partners, doing business under the firm name of Leopold Kantor & Company, Julius R. Miller and Louis Walter, co-partners, doing business under the firm name of Miller & Walter, William J. Moore and Alexander Moore, Jr., co-partners, doing business under the firm name of Alexander Moore's Sons, Timothy I. O'Connell, Jr., and Wiliam J. Hanna, co-partners, doing business under the firm name of O'Connell & Hanna, Thomas F. Rae, being one of two persons doing business under the trade name of Thomas
564 Rae & Son, Hyman Rappaport and Benjamin Besner, co-partners, doing business under the firm name of Rappaport & Besner (but referred to in the Bill of Complaint as Rappaport & Bessner), Herbert S. Stoddard and William R. Hughes, co-partners, doing business under the firm name of Stoddard & Hughes, Andrew H. Boyd and James Selfridge, co-partners, doing business under the firm name of Boyd & Selfridge, Daniel P. Christie and Andrew Christie, co-partners, doing business under the firm name of D. & A. Christie, Thompson-

Replication of Complainants. 565

Starrett Company, W. E. Smith, Inc., John I. Downey, Rufus H. Brown, S. M. Randall & Son, Inc., P. Herschowsky, A. Goldberg, for replication thereunto saith that they doth and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and insufficient in law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby 566
well and sufficiently replied unto, confessed, or avoided, traversed, or denied, is true; all which matters and things these replicants are ready to aver, maintain, and prove as this honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

WALTER GORDON MERRITT,
Solicitor for Complainants.

567

568 Replication of Complainants.

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et als.*, Complainants, *against*	In Equity.
569 ELBRIDGE H. NEAL, etc., *et als.*, Defendants.	

These replicants, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company, saving and reserving to themselves all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendants Mur-
570 ray & Hill Company, Harlem River Lumber & Woodworking Company, Empire City-Gerard Company and James C. Forbes, for replication thereunto saith that they doth and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive and insufficient in law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the

law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed, or avoided, traversed or denied, is true; all of which matters and things these replicants are ready to aver, maintain and prove as this honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

WALTER GORDON MERRITT,
Solicitor for Complainants.

572

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et als.*, Complainants,	
against	In Equity.
ELBRIDGE H. NEAL, etc., *et als.*, Defendants.	573

These replicants, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company, saving and reserving to themselves all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and in-

574 sufficiencies of the answer of the defendant David W. O'Neil, for replication thereunto saith that they doth and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of the said defendant is very uncertain, evasive and insufficient in law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and
575 sufficiently replied unto, confessed, or avoided, traversed or denied, is true; all which matters and things these replicants are ready to aver, maintain and prove as this honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

WALTER GORDON MERRITT,
Solicitor for Complainants.

576

Replication of Complainants. 577

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., *et als.*,
Complainants,

against } In Equity.

ELBRIDGE H. NEAL, etc., *et als.*, 578
Defendants.

These replicants, Paine Lumber Company, Limited, Gould Manufacturing Company, The R. McMillen Company, Morgan Company, Lothman Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons, and Bristol Door & Lumber Company, saving and reserving to themselves all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendant James Elgar, Inc., for replication thereunto saith that 579
that they doth and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of the said defendant is very uncertain, evasive and insufficient in law to be replied unto by these replicants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed, or avoided,

580 Replication of Complainants.

traversed or denied, is true; all which matters and things these replicants are ready to aver, maintain and prove as this honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

WALTER GORDON MERRITT,
Solicitor for Complainants.

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Replication of Complainants. 583

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, Ltd., *et als*,
Complainants,

against } E—7—129.

ELBRIDGE H. NEAL, *et als*, 584
Defendants.

It satisfactorily appearing by the affidavit of Walter Gordon Merritt, verified the 18th day of April, 1912, and annexed hereto, that defendant Lawrence Storey is now deceased; now on said affidavit and the annexed consent and on motion of Walter Gordon Merritt, of counsel for the complainants, it is

ORDERED that the name of defendant Lawrence Storey be stricken from the list of defendants in this action, without prejudice to the continuance 585 of said suit against the survivors.

Dated, New York, April 19th, 1912.

JULIUS M. MAYER,
D. J.

For defendants C. F. Bond Company, and other members of the Master Carpenters' Association, who have appeared in this action, excepting those represented by Phillips & Avery and Charles J. Hardy.

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588

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK. 586

PAINE LUMBER COMPANY, *et al*,
Complainants,

against

ELBRIDGE H. NEAL, *et als*,
Defendants.

587

City and County of New York, ss.:

ELBRIDGE H. NEAL, being duly sworn, deposes and says: I am one of the defendants in this action, and am a member of the United Brotherhood of Carpenters and of the Joint District Council. The United Brotherhood of Carpenters is a voluntary association, and so is the Joint District Council. The members of said associations are many of them citizens of the United States, and of every State in the United States, and some of them are citizens and inhabitants of the territories of Arizona and New Mexico and of the District of Columbia. 588

Deponent objects to the jurisdiction of this Court over the said Association or any of its members or over him, either individually or as an officer of the said voluntary association, and deponent further says that the Court has no jurisdiction because the United Brotherhood of Carpenters is a necessary party to this action, and that it is a voluntary association, and that it is not a citizen of any State, and that the Joint

District Council is a necessary party, and is likewise a voluntary association, and is not a citizen
586a of any State. Both of said associations are parties to the agreement Exhibit C annexed to the bill of complaint, which it is sought to have set aside, and that the Joint District Council is a party to said Exhibit B annexed to the complaint, which is an agreement which it is sought to set aside.

ELBRIDGE H. NEAL.

Sworn to before me this 21st day of April, 1911.

587b M. S. ADLER,
Notary Public No. 15,
N. Y. Co.

(Endorsed)—U. S. Circuit Court, Southern District N. Y.—Filed May 22, 1911.—John A. Shields, Clerk.

588c

Herman Kertscher for Complainant—Direct. 589

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LTD., GOULD MANFG. CO., THE R. M. MCMILLEN COMPANY, THE MORGAN COMPANY, LOTHAM CYPRESS COMPANY, CURTIS & YALE COMPANY, W. D. CROOKS & SONS, and BRISTOL DOOR & LUMBER COMPANY,
Complainants, 590

against } In Equity.

ELBRIDGE H. NEAL, individually and as Secretary and Treasurer of the Joint District Council of New York and Vicinity and of the United Brotherhood of Carpenters and Joiners of America, The Amalgamated Society of Carpenters and Joiners of America, *et als.*,
Defendants. 591

Testimony for final hearing taken before John A. Shields, Esq., Examiner, at the office of Walter Gordon Merritt, Esq., 27 William Street, City of New York, on September 28th, 1911, at 2 P. M.,

592 Herman Kertscher for Complainant—Direct.

under and pursuant to the Seventh Rule of the Supreme Court of the United States, as amended.

APPEARANCES:

WALTER GORDON MERRITT, Esq.,
For Complainants,

CHARLES MAITLAND BEATTIE, Esq.,
and
WILLIAM P. MALONEY, Esq.,
For defendants Neal and other union de-
593 fendants,

EIDLITZ & HULSE,
For defendants C. F. Bond Company and other members of the Master Carpenters' Association, who have appeared in this action, excepting those represented by Phillips & Avery and Charles J. Hardy.

D. CADY HERRICK, Esq.,
By Mr. Mayer,
For five Woodworking Defendants,

CHARLES J. HARDY, Esq.,
594 For Defendant James Elgar, Inc.,

PHILLIPS & AVERY,
For Bottsford & Dickinson Co.

HERMAN KERTSCHER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your business? A. Cabinet manu-
[illegible]

595

Q2. And what is the name of your concern? A. Kertscher & Company.

Q3. Is it a corporation? A. A corporation.

Q4. Organized in New York? A. Yes.

Q5. And what is your relation to it? A. President.

Q6. How long has that corporation been in existence? A. Oh, four or five years. Do you want the exact time?

Q7. No, that is—— A. Oh, it might be three, four or five years.

596

Q8. Was the concern in existence prior to its incorporation? A. It was.

Q10. And you have always been connected with it? A. I was.

Q11. How long have you been engaged in business of this kind? A. Since I left school.

Q12. How many years is that? A. Thirty years, —that is, over thirty years—thirty-five years.

Q13. Where are the factories of Kertscher & Co.? A. In Elmira.

Q14. All the factories there? A. Yes.

Q15. And how long have they been there? A. The factory up in Elmira has been there about eighteen years. We removed it from New York; we were originally in New York City.

597

Q16. Just give me in a general way the history of that Company? A. Why, the concern has been established by my father in 1862 and I succeded it.

Q17. But its factories were in New York at one time? A. In New York, about eighteen years ago we built a factory in Elmira.

Q18. And since then the factories have been in Elmira? A. Yes, in Elmira.

Q19. And during all that period you have been

connected with it? A. Always have.

Q20. And what do the factories produce? A. All cabinet trim, doors, mantels, wainscoting and general house trim.

Q21. Does that include sash? A. No, we make but very little sash.

Q22. You make some? A. We do make some, but a very small proportion. Window frames a very small proportion.

Q23. You have offices in New York? A. We have.

599 Q24. And warehouses? A. And warehouse, that is the office and warehouse together; that is, the stable is together with the office.

Q25. Where is that? A. 13 Lawrence Street, running through to 127th Street.

Q26. Do you operate, or the company operate what is known as union shops? A. Our shop is a union shop.

Q27. Any agreement with the Carpenter's Union? A. With the Carpenter's Union.

Mr. Mayer: I object to that.

600 A. (Continued) It is a Carpenter's Union, but that isn't the title, the name of it.

Q28. The United Brotherhood of Carpenters? A. That's it.

Q29. And is there a written agreement or is it an oral agreement?

Mr. Mayer: I object to it on the ground that it is immaterial, irrelevant and incompetent and in no way binding on the parties in this case.

A. It is a written agreement.

Q30. Have you the custody of it? A. I have.

Q31. And how long ago was this agreement made, generally speaking? A. Oh, I guess in 1910.

Q32. Were you operating a union shop prior to that? A. We were.

Q33. How long have you operated a union shop? A. We operated union shops for five or six years, perhaps then non-union for five or six years, then union again for a few years, it has been off and on union and non-union shop.

Q34. Perhaps you can tell me in a general way the situation from 1905 to 1910? A. I don't know whether we were unionized in 1905, I don't know.

Q35. Do you know about 1900? A. I think we were organized under the union conditions about three or four years, that is the last agreement.

Q36. Those are facts you could produce if required? A. I don't know whether I could; you mean the agreement with the union or anything of that kind. I don't know—I don't think we have the agreement. That is, I can find out if you tell me what you want.

Q37. I mean the last agreement? A. I have got the last agreement.

Q38. Were you ever engaged in the business of buying any merchandise of this kind for sale? A. No.

Q39. You never bought any for sale? A. Not to speak of.

Q40. That is, I mean in sash, doors, blinds, trim or anything of that kind? A. In what period are you speaking of, since we are in business?

Q41. Recently, the last three or four years? A. No, no. It might be that to help us out in the busy

time that we might have had, to help us out; that is, it might be.

Q42. It would be exceptional if it were true at all? A. Yes. When you say did we buy anything, did you mean some kind of a quantity, something to speak of, perhaps an amount of say $100 or $200 or $300—you mean thousands, don't you?

Q43. Yes? A. No, because I would know of it; you see the factory is not run by me, it is run by my brother.

Q44. Approximately, how many people do you
605 employ in your factory, just to give us an idea of its size? A. Say an average of 350, it might run 400 or 450.

Q45. Do you sell merchandise in New York City? A. We do.

Q46. In substantial quantities? A. Oh, yes.

Q47. Can you tell me offhand whether the larger part of your merchandise goes to New York City? A. The greater part.

Q48. Have you or your company ever employed anyone to watch the shipments of non-union woodwork in this city?

606 Mr. Mayer: I object to the question as immaterial, irrelevant and incompetent.

A. No.

Q49. And never paid anything towards the employment of persons for that purpose?

Mr. Mayer: I object to that on the ground that it is immaterial, irrelevant and incompetent.

A. Yes.

607

Q50. When did you do this?

Mr. Mayer: Same objection, and on the same ground.

A. I think about a year or two.

Q51. You mean for a period—— A. Perhaps for a period of six or eight months, it might be off and on; I ain't positive about it.

Q52. To whom did you pay that money?

Mr. Mayer: Objected to on the same ground, immaterial, irrelevant and incompetent.

608

A. To no one.

Q53. How did you come—in what way did you contribute your money to the person so employed?

Mr. Mayer: I object to that on the ground that it is immaterial, irrelevant and incompetent and not binding on the defendant.

Mr. Beattie: Same objection.

A. We put this money in the hands of Mr. Humphrey, of Palen's Sons; that is the way we paid it; if we paid it, I say no.

609

Q54. In what business are they? A. About the same business as we are. That is, in a little different line, whereas our work would run more in apartment houses their work runs, I think, more in loft buildings, office buildings and that way—mercantile buildings. I am giving you this information the best I know how. Perhaps Palen does do work in apartment houses, but not to my knowledge.

Q55. Now, can you tell me for what period of

610 Herman Kertscher for Complainant—Direct.

time you made contributions for this purpose? A. No.

Mr. Mayer: I object to the form of the question; I object also to its materiality, relevancy and competency.

Q56. That is information you can produce if so required? A. What information?

Mr. Maloney: I object on the same ground and I move to strike out the questions and
611 answers with respect to moneys contributed as being indefinite, and I ask that the purposes referred to be specified.

The witness examines certain books to refresh his memory and states that the contributions made by him were made between May, 1910 and February, 1911.

Q57. And I understand from that that it was made at different intervals between those two dates? A. It might be.

Q58. Well, I mean it wasn't all made at one date? A. It might have been in two installments
612 or one installment.

Mr. Beattie: Same objection to the question and answer as to the preceding questions and answers.

Mr. Maloney: I would ask counsel to advise us what this proof has to do with this case. I am not able to understand it for the purpose of cross-examination.

Mr. Merritt: You will before we get through.

613

Q59. Do I understand, Mr. Kertscher, that you made the payment—— A. It might have been one or two payments.

Q60. And that you made a payment on each of those dates you gave me? A. Well, between that date, and perhaps it might have been a little previous to that.

Q61. Do you know who was employed to do that work, who received this money? A. Humphrey; he paid this out in weekly installments.

Q62. To whom did he pay it? A. I think the checks were made out to George Friedenreich.

614

Q63. He was a man in your employ for other work, wasn't he? A. He was.

Q64. And didn't you talk with him yourself concerning this matter? A. In regard to what?

Q65. In regard to his work detecting shipments of non-union woodwork in New York City? A. Not particularly non-union work.

Q66. Didn't you talk to him concerning his detecting—— A. Not about non-union work, no.

Q67. Didn't you talk to him concerning what he had done? A. In what respect?

Q68. For the money paid him by Mr. Humphrey.

615

Mr. Beattie: Objected to as immaterial, irrelevant and incompetent and in no way binding upon or connected with the defendants.

Q69. I want to know didn't you converse with Mr. Friedenreich concerning his work in watching shipments? What was the purpose for which you paid this money to Mr. Humphrey?

Mr. Beattie: Same objection; immaterial,

irrelevant and incompetent and in no way binding upon these defendants.

A. Why, so as to be posted in negotiating with the union, in regards to the terms and conditions, if we renewed our contract with them.

Q70. To be posted in what way? A. Why, to know the condition under which all the work that we could find coming into New York was made—that is, the scale of wages.

617 By Mr. Mayer: When you say "we" you mean Kertscher & Company, don't you?

The Witness: No, I take in Palen's Sons.

Mr. Mayer: That is, Kertscher & Company, and Palen's Sons?

The Witness: Yes.

Q71. Were there any other people embodied in that "we"? A. Well, there might have been contributions from another concern.

Q72. Who were they? A. The Batavia people. Now, that is to my best mind; I am not saying that they did.

618 Q73. Well, didn't you have any conversation with any of them or any correspondence with any of them? A. No.

Q74. The only person you ever discussed this matter with was Humphrey? A. Why, certainly.

Q75. You don't know of your own knowledge whether these people—— A. I do not.

Q76. And did the reports made by this Friedenreich come to your attention? A. No.

Q77. You never saw them? A. I did. There they are (indicating).

619

Q78. Where did you find them? A. They were in a desk.

Q79. In your office? A. In my office.

Q80. Did these reports contain any reference to the scale of wages? A. They did not.

Mr. Beattie: I object to it as not the best evidence, and also on the other grounds, and in no way binding upon these defendants.

Q81. When did you first see the reports? A. When I got your subpœna.

620

Q82. You never saw them before? A. I did not.

Q83. Didn't you know they were there? A. No, I did not.

Q84. Didn't your arrangement provide that a copy should be left in your office? A. Arrangement with whom?

Q85. With Mr. Humphrey? A. No.

Q86. Your arrangement with Humphrey didn't provide in any way that all this information should come to your attention? A. If you put the question right I can answer it right. The way you are asking me to answer questions, I can't.

Q87. You can't answer that question? A. No.

621

Q88. Tell me how those reports were prepared and what became of them?

Mr. Maloney: What reports; I haven't heard about any reports.

Mr. Merritt: He found them in the office in his files and brought them down with him.

A. After we made arrangements with the union, I had a conference with Palen to find out whether we were getting the right terms with the union, in

622 Herman Kertscher for Complainant—Direct.

regard to the scale of wages, and we took this means of trying the best way, of trying to get at the scale of wages of the work that we saw come in in competition with our work.

Q89. I want to know how these reports were made up? A. We told Friedenreich to go and get the cars and report it to the office, and that is all we told him.

Q90. And you mean by that the number on the cars and the material in them; if he could find out what there was in it to report that? A. And the
623 concern by whom they were shipped, if possible; if he could find out.

Q91. And this was a plan hit upon by you and Mr. Humphrey? A. It was between Mr. Palen and myself.

Q92. In order to ascertain whether the union was dealing with you right in regard to the wage scale? A. Scale of wages.

Q93. How did this information concerning shipments have any bearing upon the wage scale? A. To know where the goods come from.

Q94. Well, does the knowledge where the goods come from tell you what the wage scale was? A.
623 No, but we could find it out.

Q95. How could you find it out? A. By communicating with these people or communicating with the union.

Q96. What information did you have in the wage scale of these concerns? A. I have testified to that.

Q97. I don't understand it? A. The object of getting these cars was, so in negotiating with the unions, we could make the best terms and conditions if we renewed our contract with them.

625

Q98. Well, how did this information help you in your negotiations? To know what our competitors were paying and what the conditions were. If they had different conditions than we, we wanted to know it.

Q99. Did you have any conference with any representatives of the union in connection with this matter? A. No.

Q100. Did you ever talk with any of them concerning any of the information furnished by Mr. Friedenreich? A. I did not.

626

Q101. You never met any of them in your office and talked to them about shipment of material into New York by other concerns? A. I did not.

Q102. You never met a gentleman by the name of Mr. Cook in that connection? A. I met Cook.

Q103. Who was Cook?

Mr. Beattie: Same objection as before.

A. I can't tell you that, but he is a delegate.

Q104. You understood that he was a delegate? A. Oh, yes; what office he holds I don't know.

Q105. You understood he was a delegate of the Carpenters Union?

627

Mr. Maloney: I object on the same ground as before.

A. I don't know whether he was a delegate or not.

Q106. Do you know his first name? A. I think it is Henry or Harry.

Q107. Is he a one-armed man? A. Yes.

Q108. Now, did you ever have any conversation with Mr. Cook concerning the shipments of material by other concerns into New York?

628 Herman Kertscher for Complainant—Direct.

Mr. Beattie: Same objection as before.

A. I can't answer it.

Q109. You don't remember? A. Yes, I remember, but I don't understand your question.

Q110. (Repeated.) A. Yes.

Q111. And what was it? A. It might not have been Cook, it might have been another delegate, I can't answer that definitely, but that it was some of the members of the union.

Q112. How about Mr. Rice? A. It might have
629 been him.

Q113. Did you have any conversation with Mr. Rice along this line? A. I'm not certain who it was, whether it was Cook, Rice or another party, the organizer of our factory.

Q114. It was the man who organized your factory? A. I say I am not certain who it was.

Q115. I did not ask who organized the factory? A. I meant whom I had this conversation with; whether it was Cook, Rice or the organizer of our factory.

Q116. Haven't you met together with this man Humphrey, Cook and Rice, for the purpose of dis-
630 cussing this matter of shipments into New York? A. Where?

Q117. Anywhere? A. No.

Q118. Never met with them in regard to that particular matter? A. No.

Q119. And never discussed with them any of the information obtained by Friedenreich? A. No.

Q120. Did you ever use any of this information——

Mr. Mayer: I object to that as immaterial, irrelevant and incompetent.

631

A. I testified how we used it.

Q121. I don't think you did? A. I said we sent a copy of it to Humphrey——

Q122. You said you obtained this information for certain purposes to help you in connection with your negotiations with the union? A. Yes.

Q123. I want to know if you ever did use it in your negotiations with the union? A I particularly.

Q124. Yes? A. No.

Q125. Or any one in your behalf, so far as you know? A. If you call Mr. Humphrey—I would say 632
yes.

Q126. That had nothing to do with your concern? A. No.

Q127. Did you testify that you never gave this man Friedenreich any instructions as to what he was to do? A. The instruction was to get the car numbers, and give it to the office.

Q128. And he was to do it to every carload of stuff that was to go into New York? A. No.

Q129. Every carload of this material that came into New York? A. No.

Q130. What were the instructions? A. Whatever cars he could get. He didn't get one-quarter 633
of the cars that came into New York.

Q131. But he was instructed to get the names of any cars that he could, of this material? A. Yes.

Q132. And there were no exceptions made as to the cars of material of this kind which he was not to report on? A. No.

Q133. None whatsoever? A. No.

Q134. And you have testified that you never

634 Herman Kertscher for Complainant—Direct.

saw these records until you got my subpœna? A. Yes.

Q135. Is that all you remember of your instructions to Mr. Friedenreich? A. That is all.

Q136. And you didn't talk with him from time to time concerning this matter as to what he was doing? A. He was in my employ. He was the foreman of the drivers, and I spoke to him every day.

Q137. I mean concerning the work he was doing along this line? A. No.

635 Q138. No conversation with him at any time? A. No.

Q139. Ever remember his coming to you and reporting on a job on the Rector Hotel?

Mr. Beattie: I object to him leading his own witness, and also on the other grounds.

A. No.

Q140. Do you know of any other men to whose employment for the same general purpose you contributed? A. Friedenreich had two boys helping him.

636 Q141. And was no one employed before he was employed for this work? A. Not that I remember.

Q142. Did you ever see a man named Merton in your employ? A. I don't remember.

Q143. You don't recall anyone else being employed in this same line before Friendenreich was employed? A. No, I don't remember.

Q144. Now, you have stated that your object in contributing to the employment of this man was to get certain information which would aid you in your negotiations with the union? A. Yes.

637

Q145. Now, how would this information aid you in your negotiations with the union? A. In finding out what the conditions were with the different factories that were shipping stuff to New York.

Q146. How would this aid you? A. By communicating with these parties or communicating with other unions.

Q147. How did that aid you? A. To get the information from them.

Q148. But what good does it do you to have the information? A. To renew our contract.

638

Q149. Wherein did it benefit you in your negotiations with the union? A. If other people paid a lower scale I wanted to know it, and in that respect I would get the benefit; we wouldn't pay any higher scale than our competitors.

Q150. Would this apply to non-union concerns as well? A. Why, all concerns.

Q151. Did you expect by doing this, the union would establish a better scale of wages in your factory?

Mr. Maloney: I object to this.

639

Q152. Did you ever approach a detective agency to do this same work?

Mr. Mayer: Objected to as immaterial, irrelevant and incompetent and as leading, and I direct the witness not to answer.

A. No.

Q153. Are these the books you have produced in answer to the subpœna? (Indicating books.)

A. They are.

640 Herman Kertscher for Complainant—Direct.

Q154. And these are the books that you state you found in your office? A. Yes.

Q155. That applies to all six of them? A. Yes.

Mr. Merritt: I am going to have these six books marked for identification.

Books referred to marked "Plaintiffs' Exhibits 1-6 for Id." September 28, 1911.

Q156. Will you give me the name of the stenographer who kept these? A. I think it is Mrs. Koenig, now she is married.

641

Q157. Do you know her first name? A. No, I do not. I don't think they were all kept by one stenographer.

Q158. How long had she been in your employ? Had she been in your employ during the entire period when those books were kept? A. Oh, yes.

Q159. Are you under any agreement with your competitors, or any of them, concerning the purchase or use of open-shop woodwork?

Mr. Mayer: I object to it as immaterial, irrelevant and incompetent.

Mr. Maloney: And not within the issues in

642 this case.

Mr. Beattie: Same objection.

A. Well, we belong to the Veneer Door Association.

Q160. Is that the only agreement of any kind that you have? A. No.

Q161. Well, what else? A. I don't know what you mean by agreement; we belong to this association, and we belong to the National Manufacturers' Association.

Herman Kertscher for Complainant—Direct. 643

Q162. I want to know if you have any agreement with any of your competitors here in New York? A. No.

Q163. No agreement of any kind? A. No.

Mr. Mayer: I now move to strike out all the testimony of this witness, on the ground that the evidence given is not material, relevant or competent, and not binding upon any of the defendants and not in the issues in this case.

Cross-examination by Mr. Mayer— 644

XQ164. Are you a member of the Master Carpenters' Association? A. No.

XQ165. Were you in 1910? A. No.

XQ166. Or 1909? A. No.

XQ167. Are you or have you been a member of the Manufacturing Woodworkers' Association, of which five members are defendants in this case? A. No.

XQ168. Are you one of the defendants in this case? A. No; I understand I am a witness here.

XQ169. The agreement which you signed with the union was made between the union and yourself;that is, your concern, Kertscher & Company individually, was it not? A. Yes. 645

XQ170. No other parties to the agreement? A. No. Kertscher & Company and the union of that locality.

XQ171. And the information which you sought to get was for Kertscher & Company's benefit, was it not? A. It was.

XQ172. And for the benefit of Palen's Sons, as you understood it after your talk with Palen's

Sons? A. It was.

XQ173. And solely for the benefit of yourself and Palen's Sons? A. It was.

XQ174. And in order that you and Palen might make such individual arrangement with the union of the locality as you saw fit? A. Correct.

XQ175. And that was its sole purpose? A. That was its sole purpose.

Cross-examination by Mr. Beattie—

XQ176. Are Palen's Sons or the Batavia people
647 members of the Manufacturing Woodworkers' Association and the Master Carpenters' Association, the defendants in this case? A. I can't answer. I don't think they are.

XQ177. You were not working in connection with any of these defendants to furnish them any information in connection with this money paid to Humphrey, were you? A. Why, no.

XQ178. It was for the benefit of you three gentlemen contributing? A. It was for the benefit of us, to see what the real conditions were, if we were getting treated right with the union.

XQ179. And to get information as to the kind
648 of business done by your competitors, I suppose? A. What we were more after was to see if we were getting as good terms as our competitors here from the union.

XQ180. But even at that, you were paying better wages than most of these competitors in other States, were you not, and are now? A. We are to some extent.

XQ181. Because the wages in these other mills you found different? A. I am talking about union mills.

XQ182. I don't know what you were referring to, but I thought you were trying to get information as to the work of non-union mills coming into this city? A. No, that wasn't our object; our particular object was to find out when the union organized a factory if we were getting as good terms as the factory that they were organizing.

XQ183. Around your neighborhood? A. Any place where the work competed with us.

XQ184. Well, these rates—the union rates you know, of course, differ in different parts of the country? A. Well, yes. 650

XQ185. You weren't trying to find out what goods made by these plaintiffs were coming into New York? A. I don't know who the plaintiffs are.

XQ186. Well, these instructions and this object as stated by you in getting this information was directed against all non-union mills of the country doing business in this city, was it not? A. All mills, we didn't care who they were. But what we were more after was whether the union were giving us the right deal.

XQ187. Well, then you hadn't in view these plaintiffs at all? Then there are many thousands 651
of mills union and non-union outside of the city? A. Why, certainly. I don't know who the plaintiffs are.

(Plaintiffs are named here.)

A. I know these people merely through the Veneer Door Association.

XQ188. Now, you weren't working either in connection with the union in this matter in any way? A. We were not.

652 Herman Kertscher for Complainant—Cross.

XQ189. You were getting information to be used to get terms from them rather than acting with them? A. That's it.

XQ190. Well, now, as a member of this Veneer Door Association you have certain agreement for different rates of prices with certain of your competitors, members of that Association? A. We have.

XQ191. And you fix prices? A. I say they have.

XQ192. This Veener Door Association fixes the prices that shall be charged in this city for doors,
653 windows, etc.? A. No, I wouldn't say that way. They have meetings once or twice a year and they talk over the subject, what the prices should be, but they don't establish any prices.

XQ193. Well, isn't there some understanding among these competitors? A. I haven't been to any of the meetings for three or four years.

XQ194. You get their circulars? A. Yes.

XQ195. You understand these circulars state the prices that should be charged for different sizes?

Mr. Merritt: I object to the question as incompetent. The best evidence would be the
654 production of the circulars.

Mr. Beattie: Please produce those that you put in evidence out West.

Mr. Merritt: I didn't put any in evidence out West.

XQ196. When you are selling any of these products of your mill, you consult certain books that are printed by the Veneer Door Association, do you not? A. I never made use of these—Kertscher & Company never made use of any of the prices

655

that were established by the Veneer Door Association.

XQ197. Well, are these the prices that were generally used, outside of yourselves, Kertscher & Company? A. I could not answer that question intelligently.

XQ198. Well, why, you are a member, don't you know? A. I know nothing at all about it.

XQ199. Don't you know where these books are printed? A. No. What books do you mean?

XQ200. The books issued by the Veneer Door Association stating prices? A. You mean the price list?

656

XQ201. The circulars amending and fixing the discounts? A. Where they are printed, no, I can't tell you.

XQ202. If you don't observe the price list in connection with your business, do you observe the discount list? We do not, Kertscher & Company; I am speaking of Kertscher & Company, not for the Veneer Door Association.

XQ203. You are a member of the Veneer Door Association? A. We are—that is, Kertscher & Company are members of the Veneer Door Association.

657

XQ204. Well, let us say about the Veneer Door Association, outside of your firm, are these prices not established for them, and these discounts, as stated in these circulars? A. They establish the prices, but they do not keep them.

XQ205. But it is an effort to establish? A. It is an effort, I guess.

Mr. Merritt: I object to that.

XQ206. They are to be kept?

658 Herman Kertscher for Complainant—Cross.

Mr. Merritt: I move that that be striken out on the ground that the witness already testified that he does not attend the meetings and isn't familiar with its affairs, and does not know why or where the various circulars are published, and on the further ground that the circulars speak for themselves.

XQ207. At these meetings of the Veneer Door Association you have met Mr. Nathan Paine? A. If he was there, I did not know him.

659 XQ208. Nor any of these other plaintiffs? A. I might know about four or five members of the Veneer Door Association.

Mr. Merritt: He asked you of the plaintiffs in this suit?

The Witness: No, no.

XQ209. In your direct you spoke incidentally of an agreement with your competitors as I understood it, was there any agreement with your competitors at all outside the matters passed upon and agreed to as a condition of membership of this Veneer Door Association? A. We never made an

660 agreement.

XQ210. Well, now, let us see if we can get this down. You know the Paine Lumber Company has a very large mill at Oshkosh where men, women and children work for as low as eight or nine cents an hour, which is way below your wages, and that you are competing with them?

Mr. Merritt: I object. First let the witness answer whether he does or does not know of his own knowledge whether that is a fact.

XQ211. You know they are at Oshkosh? A. Yes.

XQ212. And that they are running a mill in which their labor is very much cheaper than the labor which you pay for? A. That is just hearsay, I don't know.

XQ213. But don't you feel it in trying to sell goods to the same people that they are selling goods to? A. No, we don't come in direct competition with the Paine Lumber Company.

XQ214. Or any door company? A. Not direct. I say, don't come in direct contact with them, but that our contracts take in the dress, trim and sash 662 of the buildings, not the door separate.

XQ215. In other words, you don't figure on the same job that the Paine people figure on? A. No, from what I understand the Paine Lumber Company manufacture only doors.

Mr. Maloney: No, they manufacture sash too.

A. Well, I don't know that.

XQ216. Could you tell us, Mr. Kertscher, the year that you were union and the years that you were non-union, and about the period of each, in a 663 rough way? A. No, I could not.

XQ217. There has been a great deal of turmoil and differences and troubles in that trade in this city in recent years? A. Particularly up in Elmira.

XQ218. In so far as you deal in this cit? A. Yes; we found times when we found it to our advantage to make an agreement with the men direct, ignoring entirely the union.

XQ219. And at other times you found it to your advantage to make agreement with union? A.

664 Herman Kertscher for Complainant—Cross.

At other times we would make agreement with the union.

XQ220. And do these agreements run usually from year to year? A. From year to year.

XQ221. And would the term on which you would employ labor vary at different times in these agreements? A. They would be always on the increase.

XQ222. And to ascertain the amount of what increase you should allow them you sought this information through Mr. Friedenreich? A. Yes.

665

Cross-examination by Mr. Mayer—

XQ223. Friedenreich was employed by you during the period of time while he was so employed by you? A. He was a foreman driver.

XQ224. Is he a foreman driver in your employ no longer? A. He is not.

XQ225. Did you discharge him? A. Well, he is on strike.

XQ226. He isn't working for you now? A. He is not.

XQ227. But do you know by whom he is em-
666 ployed? A. The American Anti-Boycott Association.

Mr. Merritt: Objected to as immaterial, irrelevant and incompetent, and ask that it be stricken out.

Cross-examination by Mr. Maloney—

XQ228. Mr. Kertscher, how long have you been a union shop? A. Since its last reorganization, about three, four or five years, I think it is fully five years.

Herman Kertscher for Complainant—Re-direct. 667

XQ229. And these agreements with the union were made with the union at Elmira? A. At Elmira.

XQ230. You have no agreement with the union in New York? A. It is the Elmira Local, or Division, whatever you call it.

XQ231. You do a large business here in New York? A. We do.

XQ232. And in your business are you competitors of this Manufacturing Woodworkers' Association, who are the defendant here? A. Who are the members?

XQ233. The Harlem River—— A. We come in 668
competition with them.

Re-direct examination by Mr. Merritt—

RDQ234. Did you state how many copies of these books, Exhibits 1 to 6 were made? A. I can guess.

RDQ235. How many copies were made? A. I guess I can look at the books and tell you.

RDQ236. Well examine the books and tell me?

(Witness examines books.)

A. I think only one.

RDQ237. Do you mean this and another? A. I 669
can't answer it.

RDQ238. Did you give your stenographer any instructions in regard to the making of them? A. I don't know.

RDQ239. What do you mean, you don't remember? A. I don't remember.

RDQ240. And you don't remember whether or not you instructed her to send any anywhere? A. Why, yes.

670 Herman Kertscher for Complainant—Re-direct.

RDQ241. You do remember that? A. Why, certainly.

RDQ242. And to send one to Mr. Humphrey? A. Yes, to send one to Mr. Humphrey.

RDQ243. And you remember there were two copies to be made at least? A. No, I can't answer that. I don't know whether there has been two copies torn out here or only one.

RDQ244. Well, an original and a copy then?

By Mr. Phillips—

671 RXQ245. Wasn't there an extra copy made? A. Yes.

RXQ246. So that there was this and one duplicate? A. Yes.

RXQ247. What became of the duplicate? A. It went to Humphrey.

RXQ248. Were there any others made so far as you know? A. No.

RXQ249. You never gave any instructions to your stenographers to make more than two, at any rate? A. No.

RXQ250. You never gave any instructions to
672 your stenographer not to send to anyone but to Mr. Humphrey? A. That is correct.

It is consented that the plaintiffs have sixty (60) days further time in which to take testimony.

Further hearing adjourned to October 6th, 1911, 2 P. M.

Frank H. Humphrey for Complainant—Direct. 673

PAINE LUMBER COMPANY *et al.*, vs. NEAL, *et al.*

Hearing October 6, 1911, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainant,

CHARLES MAITLAND BEATTIE,
and 674
WILLIAM P. MALONEY,
For defendants Neal and others,

PHILLIPS & AVERY,
By Mr. Darr,
For Bottsford & Dickinson Co.,

C. J. HARDY,
By F. B. Whitaker,
For James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr. Mayer,
For defendants Gethy and others. 675

Defendants MURRAY & HILL COMPANY, JAMES C. FORBES, HARLEM RIVER LUMBER & WOODWORKING COMPANY, EMPIRE CITY-GERARD COMPANY, and DAVID W. O'NEILL, now appear in this action by William Butler, Mr. Mayer of counsel.

FRANK H. HUMPHREY, a witness called on behalf of complainants being duly sworn, testified as follows:

Q1. What is your business? A. Trim business; estimator; salesman; general office work.

676 Frank H. Humphrey for Complainant—Direct.

Q2. With what concern are you connected? A. H. W. Palen's Sons.

Q3. How long have you been connected with them? A. Twenty-nine years.

Q4. Have you ever done business with W. D. Crooks & Sons? A. We have; yes, sir.

Q5. When I say you, I mean H. W. Phalen's Sons? A. I understand; yes, sir.

Q6. When did you last do business with them—in a general way? A. Well, I don't know as I could tell you definitely, Mr. Merritt—about 1909,
677 I think.

Q7. Did you do business with them frequently from time to time up to that period? A. Yes.

Q8. That is, it was an established business? A. No; not necessarily so. We bought some stuff of them, some doors.

Q9. Do you remember Mr. W. D. Crooks furnishing you certain estimates for a school house in Brooklyn? A. Yes, sir; through his representative.

Q10. Did you finally place that order with them? A. No, we did not.

Q11. Can you give me the reasons why you did
678 not?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: And not binding in any way on these defendants.

A. For the reason that we were given to understand by the general contractor that he required all his job union made goods.

Q12. Who was the general contractor? A. James McWalter & Company, I think it was.

Frank H. Humphrey, for Complainant—Direct. 679

Mr. Mayer: I move to strike out the previous answer.

Mr. Beattie: Same motion.

Q13. Did he state why he required union made goods?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: And not binding upon these defendants.

680

A. I think he did.

Q14. What did he state in that connection? A. I think he told me that his contract called for union labor and union material, and that he did not want any trouble on the job. I do not know that that is exactly the language, but that is the substance of it.

Q15. Had you been dealing with the Crooks concern up to this time? A. Off and on.

Q16. And does this event mark the time when you stopped dealing with them?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial. 681

Mr. Maloney: Are these questions directed to this witness to show that Palen's Sons ceased to do business with Crooks & Sons at the time the witness says he had conversations with the general contractor?

Mr. Merritt: Yes.

Mr. Maloney: With the general contractor, McWalters?

Mr. Merritt: Yes.

682 Frank H. Humphrey for Complainant—Cross.

Q17. Did you find merchandise furnished you by Crooks & Sons when you were doing business with them to be satisfactory?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. We did.

Q18. Why did you cease dealing with them?

683 Mr. Mayer: Same objection.

A. I think my previous answer answers that question.

Q19. Well, you have not answered that question specifically, Mr. Humphrey? A. Because we could not use their goods in the market in which we furnished material.

Q20. And to what market do you refer? A. New York City; Manhattan.

Q21. And will you state whether or not the reason you could not use them was that they were non-union goods?

684 Mr. Mayer: I object, on the same grounds.

A. Well, that they were not manufactured under conditions laid down by the union.

Cross-examination by Mr. Beattie—

XQ22. What do you make in your factory, Mr. Humphrey? A. Window frames, sash, doors, trim, general interior mill work.

XQ23. This trim that you bought from W. D. Crooks & Sons was of the same sort you make yourself? A. It was doors; doors only.

685

XQ24. You run a union mill yourself? A. Yes, sir.

XQ25. How long have you been running a union mill? A. Well, we have run a union mill for several years, I think from 1900 up until I think 1909; we had a split with them and we ran an open shop for a year and then in 1910, I think it was, we made a new agreement with them.

XQ26. Were you running a non-union shop during period of this contract with James McWalters & Son? A. No, sir.

686

XQ27. Did you begin to run a union shop soon afterwards? A. We were running a union shop at the time.

XQ28. Did you buy any windows from W. D. Crooks & Sons? A. No, sir.

XQ29. Did you buy doors from other non-union shops besides W. D. Crooks & Sons? A. Not for this market.

XQ30. You said you bought from W. D. Crooks & Sons? A. I beg pardon, I wish to correct that statement. We did buy one lot of doors from David Gilmore & Co., Buffalo.

687

XQ31. When was that? A. I could not give you the date, sir. I rather think it was the time we were running the open shop there.

XQ32. Is that a non-union concern? A. As far as I know.

XQ33. Now when you buy doors or other woodwork, they are sold as if you had made them in your shop, are they not? A. I do not know that I catch the drift of your question.

XQ34. Contractors, of course, know you are running a union shop? A. Yes, sir.

XQ35. And if they make a contract with you to

688 Frank H. Humphrey for Complainant—Cross.

supply trim, doors, windows, or such matters, they would naturally assume that you were selling them union goods, wouldn't they? A. Yes, sir.

XQ36. And it would not be fair to these contractors for you, while your shop has been union, to buy non-union goods and sell them through your shop, would it? A. I do not think it would, we would not do it.

XQ37. Then it is because your shop is a union shop that you do not buy goods now from this W. D. Crooks & Sons? A. Well, you can have that
689 answer either way you want it; yes or no.

XQ38. Would you answer it both ways? A. Yes, I would, on that question.

XQ39. Have you got the contract you made with James McWalters & Sons at that time? A. No, sir.

XQ40. James McWalters & Sons is a union concern? A. I could not tell you, sir; they are general contractors.

XQ41. Don't you know whether they are non-union or not? A. I suppose they live up to the rules and regulations of the different unions in which they employ men.

XQ42. And that they were doing so in 1909? A.
690 As far as I know.

By Mr. Maloney—

XQ43. Did you have any contract on behalf of Palen's Sons with Crooks & Sons in 1909, at the time of this school house contract? A. I think that school house contract was 1910.

XQ44. At that time did you have any contracts with Crooks & Sons for the delivery of any material to you? A. No, sir.

691

XQ45. Your talk with McWalters & Sons then, has nothing to do with Crooks & Sons, so far as the purchase of material is concerned. A. They knew nothing about Crooks & Sons.

XQ46. When you answered the question of counsel for the complainants, then, that this event—meaning the school contract in 1910—marked the termination of your business with Crooks & Sons, that had nothing to do with any action on the part of Palen's Sons, but was a mere conclusion on the part of counsel for the complainants, was it? A. I think, if my memory serves me rightly, that—I am not just clear on the date—but what I was going to say was, that it was about the time that we made a contract with the unions that this thing happened, that is, that we received the estimate from Crooks on these doors, and shortly after that we received the estimate, while we were estimating the job, before we received the contract from McWalters.

692

XQ47. I understood you to say that you ceased to do business with Crooks & Sons in 1909, that was about the time of the last business you had with Crooks? A. Yes, as I remember it.

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XQ48. Now this school house transaction in 1910 has nothing whatsoever to do with Crooks & Sons, has it? A. I don't know as I get just what you are driving at.

XQ49. Yo had ceased to do business with Crooks & Sons before 1910, hadn't you? A. Yes. You are talking about the last purchases, before this event, or whatever you call it. I think 1909 was the last purchase we made from them.

XQ50. Did you receive estimates from other

694 Frank H. Humphrey for Complainant—Cross.

people on this contract for the school house? A. No, sir.

XQ51. Only from one? A. Yes, sir.

XQ52. Did you ask for estimates from others? A. No, sir.

XQ53. There were many other people in 1910 with whom you ceased to do business, were there not, with dealers in trim? A. No, sir.

XQ54. Had you ever dealt with anyone besides Crooks & Sons? A. In previous years?

XQ55. Excluding Gilmore. A. In previous
695 years.

XQ56. How far back? A. Probably eight or ten years.

XQ57. Then all your material, with the exception of what you have referred to as coming from Gilmore, was purchased from Crooks & Sons for eight or nine years prior to 1911? A. Not all of it.

XQ58. Who else? A. We made them ourselves.

XQ59. You and Crooks & Sons were competitors, then, were you? A. No, sir; Crooks manufactures doors, and we manufacture interior trim and doors.

XQ60. Then you were competitors only with respect to doors? A. We could not manufacture
696 doors at their price.

XQ61. You were in the same business? A. Yes, sir.

XQ62. And manufacture doors for this market? A. Yes, sir.

XQ63. Had you ever sold any of your doors in this market? A. Yes, sir; not alone, always with the trim.

XQ64. Do you manufacture sash, and did you at that time, over 1⅜ inch in size? A. Yes, sir.

XQ65. Did Crooks & Sons also? A. I could not tell you.

XQ66. Did James McWalters say anything to you about Crooks & Sons? A. No, sir.

XQ67. And so far as your conversation with him is concerned, there was no connection between him and Crooks & Sons at all? A. The name of Crooks was never used, sir.

X68. Was this conversation with McWalters before or after you had unionized your shop in 1910? A. After.

XQ69. What time in 1910, approximately, giving the month, was it that this contract for the school house came up? A. I could not tell you, sir, without my books.

XQ70. Was it before or after your shop was unionized in 1910 that you asked Crooks & Sons for the estimate? A. I think it was after, sir; I would not be positive on that question.

XQ71. Is there a large difference in the price of the doors between your price and Crooks' price? A. I don't think I ever figured them.

XQ72. I understood you to say that you could not compete with them on account of the difference in price? A. Which door do you mean—this particular lot that you are referring to here?

XQ73. Doors, Yes? A. Any door?

XQ74. Doors generally, first? A. Doors generally, yes.

XQ75. There is a big difference in the price? A. Fifteen to twenty per cent.

XQ76. Was there a greater difference in the price with respect to these particular doors? A. I could not tell you, sir; I never figured them up.

XQ77. Is the reason there is a difference in the

700 price between your office and theirs, the difference between the wages here and the wages paid by them in their locality?

Mr. Merritt: I object as thoroughly incompetent, irrelevant and immaterial. It does not appear that this witness knows what goes to make up the cost and selling price of merchandise produced by Crooks & Sons.

A. I could not tell you, sir.

701 XQ78. You do not know? A. No, sir; I have no knowledge of their cost system or what their material costs them.

XQ79. Have you ever investigated your business to see why they could sell cheaper than you could? A. No, sir.

XQ80. Did you get the contract for the school? A. We did.

XQ81. To whom did you give the contract for the doors? A. Made them ourselves.

XQ82. Were they made here in New York? A. No, sir; they were made at our mill.

XQ83. Where is that? A. Kingston, New York.

702 XQ84. Under union conditions? A. Yes, sir.

XQ85. What particular size doors were these, do you know? A. They varied in size, 3 by 7, $1\frac{3}{4}$ inch.

XQ86. For the school house? A. Ordinary school house doors.

XQ87. They do usually vary on a contract of that size? A. Always; yes, sir.

XQ88. So that there was nothing unusual about this order? A. No, sir.

XQ89. What did it cost you to make them? A I

could not tell you, sir; I have not the cost of them.

XQ90. What wages did you pay in your factory where these were made, at that time?

Mr. Merritt: Objected to as not cross-examination.

A. I don't think I could give you an average wage. We had a scale laid down by the union, we could not pay anything lower than that.

XQ91. You did not employ any women or children there, did you? 704

Mr. Merritt: Objected to as not cross-examination.

A. No, sir.

By Mr. Beattie—

XQ92. What is the number of that school? A. I could not tell you that, sir; I have not the number of it; it was in Queens. It was an addition to a school in Queens.

XQ93. Did James McWalters & Sons tell you that under the law of this State the prevailing rate of wages in that locality had to be paid? A. No, sir. 705

XQ94. But you knew that was the law? A. No, sir.

XQ95. Did James McWalters & Sons tell you that I had tied up their contract for that school at that time because they had put non-union trim on the building, or that they had contracted to put non-union trim on it? A. No, sir.

XQ96. For the Brotherhood of Carpenters? A. No, sir.

XQ97. Didn't you know that all contracts at that time were tied up by the Brotherhood of Carpenters —public school buildings—because of contracts let out for non-union trim or putting non-union trim on them? A. No, sir.

XQ98. To the amount of about fifty public buildings? A. No, sir.

XQ99. Never heard of it, in letting out your contracts for public buildings? A. No, sir.

XQ100. Did you ever have any other contracts for public buildings but that? A. I don't know
704 that we did at that time, but we have furnished lots of public buildings.

By Mr. Mayer—

XQ101. Mr. Humphrey, Mr, Kertscher, in his testimony last week, testified that he had several talks with you concerning the watching of all materials coming into New York. Are you the Mr. Humphreys referred to?

Mr. Merritt: Objected to as not cross-examination. Counsel will be bound by the witness's answer.

705

A. Yes, sir.

XQ102. Mr. Humphrey, for whose benefit was that information obtained? A. For the benefit of Kertscher and H. W. Palen's Sons.

Mr. Merritt: I want it understood that my objection extends to all this line of testimony.

XQ103. Your inquiry was solely for your benefit and that of Kertscher & Company? A. Yes, sir.

706

XQ104. And it was not at the request of the Master Carpenters' Association or the Manufacturing Woodworkers' Association? A. Nothing whatever to do with them.

XQ105. And you never consulted them in regard to the matter? A. No, sir.

XQ106. And was it done solely for the purpose of giving you necessary information, so that you might deal with the union in making your yearly agreement? A. Yes, sir.

707

Re-direct examination by Mr. Merritt—

RDQ107. Who was employed to secure this information that Mr. Mayer has been asking you about? A. I do not know as I can tell his last name. His first name was George, is all I know. He was employed by Mr. Kertscher.

RDQ108. How much was he paid to do the work? A. Thirty dollars a week.

RDQ109. Who paid him? A. I sent him the checks.

RDQ110. Who contributed the money? A. Kertscher & Company., H. W. Palen's Sons, Buffalo, New York Woodworking Co.

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RDQ111. Did any Jamestown concern contribute? A. Yes.

RDQ112. What concern is that? A. Jamestown Mantel Company.

RDQ113. Who gave this man instructions as to what information he was to secure? A. I do not know as he was ever given any instructions, more than to take the numbers of all cars of trim coming into New York.

RDQ114. That included all cars, whether they

712 Frank H. Humphrey for Complainant—Re-direct.

were union or non-union, did it not? A. That included any car that he might get; yes, sir.

RDQ115. And was this information furnished to you? A. It was; yes, sir.

RDQ116. In what way did it come to your hands? A. It was sent to me on a slip, of which he was supposed to have a carbon copy, as I understood it.

RDQ117. Did you receive it through the mails? A. Yes, sir.

RDQ118. Wasn't it frequently telephoned to
713 you? A. Never but once or twice to my knowledge, that is when the system was first started; I think he telephoned one car or so.

RDQ119. Have you examined the testimony of Mr. Kertscher in this case? A. No, sir.

RDQ120. Have you examined any of these memorandum books? A. No, sir.

RDQ121. How long was this practice carried on? I should say as near as I can remember, a good part of 1910, after we had renewed our contracts and made our new contracts with the union.

RDQ122. Did the concerns you mention con-
714 tribute equally to this fund? A. Well, as near as I can recollect, they did.

By Mr. Beattie—

RXQ123. Is your firm a member of the American Anti-Boycott Association?

Mr. Merritt: I object to that as incompetent, irrelevant and immaterial and not bearing any relation to any of the issues in this action; and I object to it further on the ground

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that it does not appear that the witness knows or could know whether such was a fact.

A. I could not swear to that, sir.

RXQ124. Have they been members during the last two or three years?

Mr. Merritt: Same objection.

A. I could not swear to that, sir; I have nothing to do with that end of it.

By Mr. Maloney—

716

RXQ125. Do you mean that you never knew, or that you are uncertain about it? A. I never knew; I would have no way of knowing anything of that kind, because it was beyond my——

RXQ126. Nothing to do with your work at all? A. No, sir.

Subscribed and sworn to before me this day of , 1911.

MRS. ELIZABETH KOENIG, a witness called on behalf of Complainant, being duly sworn, testified as follows:

717

Direct Examination by Mr. Merritt—

Q1. What is your age, Mrs. Koenig? A. Twenty-five.

Q2. You were formerly employed as a stenographer by Kertscher & Company, were you not? A. Yes. Clerical work.

Q3. Now I show you certain books marked Plaintiffs' Ex. 1 to 6 for identification, and ask you if you made out those books? A. All of No. 1 is my writing; some in book No. 2 I do not believe I

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wrote—it does not look like my writing, the majority is mine; the majority of No. 3 is mine, also.

Q4. You think there is some in No. 3 that you did not write? A. Yes, and also in No. 2 I think you will find some. There is some in No. 3 that I did not write (indicating); the majority of No. 4 I did not write.

Q5. You wrote some of No. 4? A. Yes, some of No. 4. All of No. 5 is not my writing.

Q6. Is some of No. 5 your writing? A. No, I don't think that any of it is in my writing. And
719 No. 6 is not my writing, either.

Q7. During what period of time did you work for Kertscher & Company? A. For about seven and a half years ending April 1, 1911.

Q8. How many copies of these books or such portion of them as you kept, did you make? A. Why, there were three.

Q9. What was done with them?

Mr. Mayer: I object to the whole line of this testimony as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

720

A. The tissue copy was kept at the office, together with the yellow, and the white copy was sent to Mr. Humphrey of Palen's Sons. All made at the same time.

Q10. Wasn't there a copy sent to Greenwich, Connecticut? A. Yes.

Q11. Was that a fourth copy? A. No, that was a typewritten copy.

Q12. And that was typewritten matter of the same kind? A. Yes, I think it was exactly the same thing.

SPOTS ON PAGES

721

Q13. To whom did that go? A. That went to Mr. Murray.

Q14. How do you spell his name? A. I believe it is M-u-r-r-a-y.

Q15. You do not remember his first name? A. I do not remember what the initials were.

Q16. Did you send a copy to this Mr. Murray during the entire period when you were doing this? A. I think so; I am not so positive of that.

Mr. Maloney: If it is intended to be proved by this witness that a copy of this paper was sent or delivered to Mr. Murray, I would like to have the fact proved regularly.

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Q17. Did you mail this copy yourself to Greenwich at times? A. Yes, at times I did.

Mr. Maloney: I object to this as not competent evidence of the delivery of the paper to Mr. Murray.

Q18. Did you typewrite it? A. No.

Q19. Did you compare it after it was typewritten? A. That I don't remember, either.

Q20. You could not say whether you did it as to any of these books—whether you compared any of them? A. No, I do not remember that.

723

Q21. Who did typewrite them? A. Why, one of the stenographers in the office.

Q22. Could you give the name of any one who did it? A. I believe Miss Bulter.

Q23. Who instructed you to make these copies? A. Mr. Herman Kertscher.

Mr. Maloney—

Q24. Which copies? A. All of the copies.

724 Mrs. Elizabeth Koenig for Complainant—Direct.

Mr. Merritt— —

Q24. And did you take charge of the mailing, either to mail them yourself or to see that someone else mailed them? A. Well, I guess I mailed the majority of them.

Q25. Did you have supervision of them, to see that they were mailed? A. Yes, I was to see that they went off every night.

Mr. Maloney: Objected to as not competent proof of the delivery to Mr. Murray, and
725 as the witness is here, I ask that counsel obtain competent, strict proof of the fact of the delivery to Mr. Murray of such papers.

Q26. Have you any way of obtaining the name and address of this Mr. Murray to whom you sent this? A. No, I have not.

Q27. No record of it? A. No.

Q28. Was it put in record in the office in any way? A. They might have some record of it. Of course, I do not know, because I have been gone from there for some time now.

Q29. How did you know the name and address to
726 put on the envelope? A. It was given to me by Mr. Kertscher.

Q30. And you carried it in your mind from time to time? A. Yes. I might have had it on the slip for a while. I don't know whether that slip would be at the office now or not.

Q31. For how long a period of time did you do this work? A. Well, wherever it is recorded in these books, wherever my writing is.

Q32. Did you testify that some of book No. 6 was yours? A. None of book No. 6 is mine.

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Q33. Did Miss Bulter ever address the envelopes to Mr. Murray? A. Yes, I guess she did.

Q34. Would she know his name? A. I don't know if she remembers it.

Q35. Was there anyone else there who helped address the envelopes at times?

Mr. Maloney: I wish to state that there is no competent evidence here at all of the delivery of these papers to Mr. Murray, and as the witness is here, any knowledge she may possess on the subject should be obtained by the counsel for the complainants, without asking for her conclusions. 728

A. I think Miss Delaney did.

Q36. Do you know her first name? A. Catherine.

Q37. Do you know the first name of Miss Bulter? A. Yes—Grace.

Cross-examination by Mr. Darr—

XQ38. Did Mr. Kertscher tell you why he was sending these statements to Mr. Murray? A. Well, Mr. Kertscher stated that the union, I believe, increased the scale of wages for his employees, and of course, that would increase the cost of material, and he wanted to see that the other concerns lived up to their agreement with the union who were working under the same basis. 729

Mr. Beattie: I ask that that answer be stricken out as incompetent, irrelevant and immaterial.

The Witness: Mr. Murray was a representative of the union, I believe a delegate.

730 Mrs. Elizabeth Koenig for Complainant—Cross.

Mr. Beattie: I ask that that be stricken out as incompetent, irrelevant and immaterial, and as not proving who this man Murray was.

By Mr. Maloney—

XQ39. Do you know Mr. Murray at all, personally, ever see him? A. Yes, I have seen him.

XQ40. Did he come there to the office? A. Yes, he was at the office.

XQ41. And did you deliver these lists to him
731 personally then? The copies of the papers—or were they mailed? A. They were mailed.

XQ42. Did you put stamps on the envelopes and take them out and mail them? A. They were mailed.

XQ43. Did you put stamps on the envelopes and take them out and mail them? A. I mailed them; I saw them mailed, most of them.

XQ44. Weren't there boys in the office who did that, copied the letters and mailed them? A. Yes; part of the time the boys copied, and later on, the girls copied the letters.

XQ45. And are you sure that you personally
732 took these letters and put stamps on and put them in the Post Office box, or did the boys do it, or are you uncertain about it? A. Girls always put them in the envelopes after the boy had copied them.

XQ46. Who put the stamps on and mailed them? A. The girls put the stamps on and most of the time they were given to me to be mailed.

QX47. To you personally? A. Yes, sir.

XQ48. And you took them out and put them in the Post Office box? A. Yes.

XQ49. And are you sure that with regard to

these particular typewritten copies of these records that you say were sent to Mr. Murray, that you did that? A. Yes; I know I mailed the majority of them.

XQ50. I understand you to say the girls put them in the envelope and the boys put stamps on and you mailed them? A. The girls put them in the envelopes; the boys copied them. At first the boys copied the letters, and afterwards the girls.

XQ51. Did you put any of these in the envelopes yourself? A. No; I do not remember putting any of them in the envelopes. 734

XQ52. You never delivered any to Mr. Murray personally? A. No; I did not.

XQ53. What made you think that Mr. Murray was a representative of the union; did Mr. Kertscher say so? A. Why, when Mr. Murray came to the office I remember him handing a card. I went to the window at one time and he handed a card to me, and I believe on that card it was printed that he was a representative of the union, a delegate.

XQ54. Did you ever speak to Mr. Kertscher about it? A. No.

XQ55. You say Mr. Kertscher told you to send them to him, to Mr. Murray? A. Yes. 735

XQ56. I understood you to say that you understood that the objects of these reports was to find out if the union was dealing the same with Mr. Kertscher or with that company as with the others?

Mr. Merritt: I object as clearly improper, what this witness understood.

Mr. Maloney: That question was asked——

Mr. Merritt: It was stricken out.

Mr. Maloney: Is it understood now that the

witness has answered that she understood the previous answer as stricken out, and that the question was changed, and that she was asked what Mr. Kertscher had said?

Mr. Merritt: Yes.

Mr. Darr: Yes.

XQ57. Did Mr. Kertscher say to you that the reason why these reports were being obtained was, that he had to pay increased wages to the union men, and he wanted to find out if other persons
740 dealing with the union, or if the union, was dealing fairly with them the same as with other persons? A. He wanted to find out if these other firms were living up to their contract also.

XQ58. With the unions? A. Yes.

XQ59. Other concerns who had agreements with the union similar to Kertscher & Company? A. Yes, sir.

XQ60. Do you recognize the handwriting in these books other than your own handwriting? A. Yes; I do.

XQ61. Whose handwriting is it? A. Miss Grace Bulter's.

741 XQ62. In all cases? A. I think it is. (Examines books.) It is all in Miss Bulter's writing.

XQ63. What is your address? A. 27 Lawrence Street.

XQ64. Borough of Manhattan? A. Yes, sir.

XQ65. Were you subpoenaed to come here? A. Yes, sir.

XQ66. By the complainants, by Mr. Merritt? A. Yes.

XQ67. Was Mr. Kertscher present at the time that Mr. Murray called personally? A. Yes.

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XQ68. And talked with him? A. Yes, sir.

XQ69. Did Mr. Murray call at Mr. Kertscher's office, before these reports were prepared, or during that time, or after? A. I believe it was at the beginning of the time that we were getting these reports.

XQ70. At the time that they were first made? A. At the time that they were first made.

XQ71. Before any of them were made? A. No; I don't think so, it was just at the beginning, when we were starting in.

XQ72. Do you know whether Mr. Kertscher sent for him. A. That I do not know. 743

XQ73. Did you see him when he first came, the first time he came? A. Yes.

XQ74. And did you take him to Mr. Kertscher? A. Yes, sir.

XQ75. Was it after that that the reports were sent? A. We might have gotten a few of these reports at that time; that I am not sure of.

XQ76. Who typewrote these copies which you say were sent to Mr. Murray, you or one of the other girls? A. One of the other girls, stenographers.

XQ77. You saw her do that, or is it just that you think so? A. I saw her typewrite some. I might not have looked at every one. 744

XQ78. Was there one girl in charge of the others who gave the girls instructions to make copies of the different papers? A. No; I was.

XQ79. And did you give instructions to this girl to make these copies? A. Yes, sir.

XQ80. And that was from instructions which you had received from Mr. Kertscher? A. Yes, sir.

XQ81. Were you present at any conversation be-

tween Mr. Murray and Mr. Kertscher with regard to these reports? A. All I was told in the presence of Mr. Murray was, that I was to send a copy of these to him, an extra copy, a typewritten copy.

XQ82. Did Mr. Kertscher say in your presence and in the presence of Mr. Murray what you have testified Mr. Kertscher told you was the object of these reports? A. No, sir.

XQ83. Is there any fact that you can state from which you know that Mr. Murray knew that Mr. Kertscher had this object? A. No; I do not.

743 XQ84. You did not hear Mr. Kertscher say it to Mr. Murray, or Mr. Murray say it to Mr. Kertscher? A. No, sir.

XQ85. Did you hear Mr. Murray ask for copies of the papers? A. No, sir.

Re-Direct Examination by Mr. Merritt—

RDQ86. How many times did you see Mr. Murray in Mr. Kertscher's office? A. I believe he was only there about twice that I know of.

RDQ87. And it was the first time that you received his card? A. It was the first time that he

744 came there; yes.

RDQ88. And you handed the card to Mr. Kertscher? A. Yes, sir; to Mr. Kertscher.

RDQ89. You have not that card, I suppose? A. No, sir; I have not.

RDQ90. Do you recall what it said on the card? A. Just the name, and I believe in the left hand corner it stated something about a representative of some union, that he was a representative of some union; I do not know what union it was.

RDQ91. Could you state whether or not it men-

tioned the Carpenters' Union? A. No, sir; I do not know.

RDQ92. You simply know it said some union? A. Something about a union; yes.

RDQ93. Would you know whether it mentioned the United Brotherhood of Carpenters & Joiners of America? What is your best recollection? A. I do not remember; I do not remember what was stated.

RDQ94. And you do not know what officer was stated or what office was stated on the card? Did it simply state "Representative," as you call it? A. 746
No officer, I believe, was stated.

RDQ95. Just "Representative." A. Just "Representative."

RDQ96. Was the card about the ordinary size of a business card? A. Yes, sir.

RDQ97. You say Mr. Murray came there twice, to your knowledge? A. Yes, sir.

RDQ98. Did he see Mr. Kertscher at both times? A. I think he did; I am not sure; I could not swear to that.

RDQ99. Now you stated that when Mr. Kertscher requested you to attend to this matter, that he gave you this explanation as to why he wanted 747
to do it? A. Why, I don't know whether it was just the very first time I was making up these papers, or whether it was a little later when he said that.

RDQ100. Do you know just what the occasion was of his stating it to you? A. No; I could not tell you just when.

RDQ101. Have you talked with anyone concerning the testimony in this case since the issuance of the subpoena? A. Well, in what way do you mean?

748 Mrs. Eliz. Koenig for Complainant—Re-cross.

RDQ102. Well, have you talked with Mr. Kertscher? A. Why, yes; I saw Mr. Kertscher, because I went to see what the subpoena was about. I did not know what it referred to.

RDQ103. And did you talk this matter over with him?

Mr. Mayer: I do not understand what the purpose of this testimony is. If you intend to impeach your own witness, I would like to know it.

749 A. Why, yes; he told me just what he thought it was about.

RDQ104. Didn't you discuss with him this statement which you said that he made to you as to why he was asking you to do this work? A. No, sir.

RDQ105. You had no conversation with him? A. No, sir.

Re-cross-examination by Mr. Beattie—

RXQ106. Was Mr. Kertscher accustomed to discuss his business affairs with you and state the purposes of his different business movements? A. Why, not of everything, no doubt.

750 RXQ107. Did he ask your advice on this matter. A. No.

RXQ108. Why did he state his purposes in connection with this to you? A. I do not know what his object was.

RXQ109. Was it not an unusual thing for him to do? A. Well, I don't know.

RXQ110. How many cards of other callers than Mr. Murray on Mr. Kertscher, did you receive the

same day that you saw Mr. Murray's card? A. Why, that I don't remember.

RXQ111. Well, you received a number of others, didn't you, that same day? A. That I don't know.

RXQ112. Well, how many cards did you receive of other people the day before? A. I could not tell you that.

RXQ113. Cannot you give us the name of anybody else's card that you received that day or the day before? A. No, sir.

RXQ114. Now, you say that there was something about the union on his card. Don't you re- 752
member that it said on it "Member of the Choral Union of Greenwich, Connecticut"? A. No; it did not.

RXQ115. It might have been? A. No, sir.

RXQ116. It was something about some sort of a union? A. Yes.

By Mr. Maloney—

RXQ117. What kind of a looking man is Murray? Describe his appearance, please. A. Medium height.

RXQ118. Young man? A. No; he must be about, I should judge, very nearly fifty. 753

RXQ119. A stout, stocky man? A. Yes.

RXQ120. Dark color, dark hair? A. I think he had grayish hair, grayish mixture.

RXQ121. You never talked this evidence over that you have been giving this afternoon, with myself or with Mr. Beattie or with Mr. Mayer, did you? A. No, sir.

RXQ122. Never saw us before? A. No, sir.

RXQ123. And you never talked over the evidence with any representative of the union that you know of? A. No, sir.

754 Mrs. Eliz. Koenig for Complainant—Re-cross.

RXQ124. This statement that Mr. Kertscher made to you, about the object of this report was merely a casual statement made, as he might of any other transaction; was it? A. Why; yes.

RXQ125. He had occasion frequently to speak to you and the others in the course of the business about any matter that you were doing? A. Oh yes; about what we were doing.

RXQ126. And Mr. Kertscher has never at any time stated to you that you should come here and testify to this effect? A. No, sir.

755 RXQ127. When you went to him, you merely went to find out what the matter was about? A. What it was about.

RXQ128. Was there any attempt made around the office to have any secrecy about this report at all, or were these reports open to everybody around the place? A. Well, how do you mean—everybody could look at them?

RXQ129. There was no attempt made to cover them up or conceal them, but the employees saw them freely, the same as other correspondence and other matters? A. Why yes; I suppose they did.

RXQ130. There was nothing about the way it
756 was done in any way to suggest to your mind that there was any conspiracy on the part of anyone? A. No, sir.

By Mr. Merritt—

RDQ131. How did you come to go to Mr. Kertscher's office about this? A. About what?

RDQ132. About this subpoena? A. Why; because I saw the name Paine Lumber Company, and then I thought it must be something pertaining to business.

Mrs. Eliz. Koenig for Complainant—Re-cross. 757

RDQ133. Did he not request you to come. A. Oh, no.

RDQ134. And you did not have any communication from him before you received the subpœna? A. No; I did not.

RDQ135. Directly or indirectly? A. No.

RDQ136. Had no communication with anyone concerning this before you received the subpœna? A. No, sir.

RDQ137. Would you recognize the name of John Murray as the name of the man who came there? A. No; I don't think it was. 758

RDQ138. As far as your recollection goes, it was not? A. No; it was not; I don't remember that at all.

RDQ139. It does not suggest anything to you? A. No.

RDQ140. Would you know one of the cards if you saw it—its general character? A. I don't know; I might.

By Mr. Maloney—

RXQ141. Mr. Kertscher's place of business is at 13 Lawrence street? A. Yes, sir. 759

RXQ142. Near where you live, on the same street? A. Yes, sir.

RXQ143. Do you know what this suit is about at all, Mrs. Koenig? A. No; I do not.

Subscribed and sworn to before me this day of , 1911.

760 Oliver L. Worden for Complainant—Direct.

OLIVER L. WORDEN, a witness called on behalf of complainants, being duly sworn, testifies as follows:

Direct examination by Mr. Merritt—

Q1. What is your age? A. Thirty-five.

Q2. What is your business? A. Salesman.

Q3. Connected with what establishment? A. Bristol Door & Lumber Company.

Q4. Your business place is here in New York? A. World Building.

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Q5. Under what name is the sales agency in New York? A. Oliver L. Worden.

Q6. How long have you been doing business under that name? A. Formerly I had a partner; about two years and a half, I think.

Q7. And do you represent more than one manufacturer? A. Yes, sir.

Q8. What other concerns do you represent, besides the Bristol Door & Lumber Company? A. A. H. Fisher Co., Charleston, South Carolina; Moore & Gallaway Lumber Company, Fond du Lac, Wisconsin, Roddis Lumber & Veneer Company,

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Marshfield, Wisconsin. I have others that I partially represent, that is all, smaller concerns, in different lines of stuff. Nothing that comes under this head—other lines of stuff entirely.

Q9. What do these various concerns manufacture which you sell? A. Mouldings, trim, doors, sash, blinds, sort of general mill work.

Q10. All woodwork? A. All woodwork.

Q11. To what class ofcustomers do you sell this merchandise? A. To the mills and lumber yards, dealers of that kind.

Q12. You sell to some builders? A. Not directly, material on jobs through the mills for certain jobs. I want to change that statement—one mill I do. That is on one thing that has just started in; that is, the last one I have had.

Q13. How long have you represented the Bristol Door & Lumber Company as its sales agency here? A. A little over two years.

Q14. Can you give us the amount of business you have transacted for that concern in those two years?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial and not an issue in this case and in no way binding on these defendants. 764

Mr. Beattie: Same objection.

A. I could not tell exactly. The records of the mill would show that. But I think I could tell closely, as to this particular section.

Q15. Give us such information as you have.

Mr. Mayer: Same objection.

A. I should imagine, Brooklyn, possibly $30,000 to $40,000; New York, we did not sell much until about April, 1910. I think that ran in the neighborhood of $20,000 to $25,000, up to the time we stopped selling. 765

Q16. Have you stopped selling in New York? A. I cannot sell any more.

Mr. Mayer: I move that the answer be stricken out.

Q17. You refer to the Island of Manhattan? A. Yes, sir.

766 Oliver L. Worden for Complainant—Direct.

Q18. Why have you stopped your business?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Q19. With customers on the Island of Manhattan?

Mr. Mayer: I object, not binding on these defendants.

A. Because they won't buy it of us on account of
767 not being union stuff.

Mr. Mayer: I move to strike out the answer.

Mr. Maloney: Immaterial; too vague, and does not specify who.

Mr. Mayer: And a conclusion on the part of the witness.

Q20. You have sold goods to the Empire Door & Trim Company, have you not? A. Yes, sir.

Q21. When did your business with that concern begin? A. I think the first shipment, along about the first of April, 1910.

Q22. Do you still do business with that concern?
768 A. No, sir.

Q23. When did it end? A. The last shipment, I believe, was made along in October, except the remnants of cancelled orders which came along about a month or so later.

Q24. Referring to October, 1910? A. Yes, sir.

Q25. Did representatives of this concern give you any reasons why this business was discontinued?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial; hearsay.

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Mr. Mayer: And not identifying the person, and in no way binding upon these defendants.

A. Yes, sir.

Q26. What persons were they who gave you these reasons? A. Mr. Biggart, of the Empire Door & Trim Company, as well as Mr. Kertscher of the Empire Door & Trim Company.

Q27. And what reasons did these people give you for discontinuing their business with the Bristol Door & Lumber Company?

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Mr. Beattie: Same objection.

Mr. Maloney: Incompetent, irrelevant and immaterial, and not binding on these defendants.

A. That they were not manufacturing union made material, satisfactory to the union regulations.

Q28. And is that all that they said to you in this connection? A. That the unions would not put the material on the jobs and consequently they could not trade with us any more unless we were unionized.

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Q29. Is that all they said? A. They also said they had about one or two cars that had been sent in, the unions had discovered it, refused to let the men work on the job as long as the material was made in that mill, compelled them to take it out and hire storehouse outside to store it.

Q30. You remember anything else they said in this connection? A. Do you mean general conversation in regard to it, or what?

Q31. Yes. A. Reasons, or anything of that kind?

Q32. Yes. A. Well, I asked them when they

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called me up, the reasons for the trouble, and they explained it, saying that it was the union conditions that they were obliged to work under, and that although everything had been satisfactory, they could not buy any more stuff from us for that reason.

Mr. Beattie: I ask that that be stricken out, on the same grounds.

Q33. Did they state anything about any agreement with you? A. Yes, sir.

773 Q34. Was that statement made at this time, in the same connection? A. About the same time.

Q35. And what was it that was stated? A. These conversations came up at several different times; told me the trouble they had getting those cars in; first they had not signed the scale, and finally they told me that they had been obliged to do it.

Mr. Beattie: I ask that that be stricken out on the same grounds.

Q36. You stated that they had several cars that they had ordered through you at the time? A. Yes,

774 sir.

Q37. Can you give me approximately the value of these orders? A. Which ones do you mean?

Q38. Which they had on order at this time. A. Orders placed with us?

Q39. Yes. A. I cannot tell you exactly. They asked us to cancel the orders and there were parts we could not cancel, I think in the neighborhood of $1,000 worth that was partly made, which we had to finally ship, or which we did ship, and they had to take it. There were about two cars that

had come in here, which they claimed they could not put on the jobs; the unions would not let them.

Q40. What is the value of one of those cars? A. $1,500 to $2,000; they vary.

Q41. Did the Empire Door & Trim Company tell you prior to these conversations and when you were still doing business with them, whether your merchandise was satisfactory or unsatisfactory, whether they intended to continue or discontinue?

Mr. Mayer: I object as incompetent, irrelevant and immaterial and not binding on these defendants, and as calling for a conclusion. 776

Mr. Maloney: And as hearsay.

A. Yes, sir.

Q42. What did they state?

Mr. Beattie: Same objection.

Mr. Mayer: Same objection.

A. They stated that they thought that with the connection they had made with us as a source of supply, that they could go after the large contracts, and that their business was only a small matter at the present time as to what they expected. Everything was satisfactory, and I believe from their conversation they thought they had a good connection, at least, that is what they told me. 777

Mr. Mayer: I move to strike out the answer.

Mr. Beattie: Same motion.

A. (Continued.) They also stated that our goods were very satisfactory and our shipments were very prompt, and that they were well satisfied in that respect.

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Q43. What is the amount of merchandise you sold this concern in a year, approximately? A. It is hard to tell what it would amount to, because we had sold them only from the first of April—they had just commenced to buy from us. We had then sold them about $10,000 worth of material up to that time, between April 1 and the middle of October. Those goods were sold prior to that time, but that was the shipments to about October, and then the rest stopped.

Q44. And the business stopped in October, 1910,
779 you say? A. Yes, sir. I had no orders from them after that. We shipped just a small car that we had partially made up before it was cancelled.

Q45. Have you ever sold goods for the Bristol Door & Lumber Company to one William Klein? A. Sold him one lot.

Hearing adjourned to Friday, October 13, 1911, at 2 P. M.

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Oliver L. Worden for Complainant—Direct. 781

PAINE vs. NEAL.

Hearing held pursuant to adjournments, Saturday, October 21, 1911, 10:30 A. M.

APPEARANCES:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

WILLIAM MAITLAND BEATTIE,
and
WILLIAM P. MALONEY, 782
For defendants Neal and other union defendants.

C. J. HARDY,
By F. B. Whittaker,
For James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr Mayer,
For defendants Gethy and others.

WILLIAM BUTLER, Esq.,
By Mr. Mayer.
For defendants Murray & Hill Co., Jas. C. Forbes, Harlem River Lumber & Woodworking Co., Empire City-Gerard Co. and David W. O'Neill. 783

Direct examination of Oliver L. Wordin, resumed.

By Mr. Merritt—

Q46. You testified at the last hearing that you sold goods of the Bristol Door & Lumber Company to one William Klein. He does business, does he

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not, under the name of The Tremont Moulding Mill? A. Tremont Moulding Mill, William Klein, Proprietor, I believe it is.

Q47. And Tremont Moulding Mills, you understand, is a trade name? A. Yes.

Q48. Did you sell him certain merchandise to be used for a building erected for the P. J. Groll Construction Company? A. Yes, sir.

Q49. What was the character of that merchandise. A. Trim and mouldings.

Q50. Do you know the full amount and value
785 thereof? A. Approximately $1,500. It may be a little more or a little less; about that amount.

Q51. Can you tell approximately when this contract was made? A. My recollection is, it was shipped in October, and it was evidently ordered, then, about September or August, 1910.

Q52. It would be ordered a month or two prior to that date? A. Yes.

Q53. Well, your transaction was with Klein only? A. Yes, sir.

Q54. And it was an out and out sale between you and Klein? A. It was an out and out sale, with Groll guaranteeing the account.

786 Q55. Have you ever done any buisness with this man Klein since that transaction? A. No, sir.

Q56. Did you subsequently collect that account for this particular lot of material?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection and in no way binding upon these defendants, and hearsay.

A. Yes, sir.

787

Q57. Did this man Klein ever give you any reasons why he could not continue business with you?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial; hearsay; not binding on the defendants.

Mr. Mayer: Same objection.

A. Yes, sir.

Q58. What were those reasons?

Mr. Maloney: Same objection. 788

Mr. Mayer: Same objection.

A. That he would have to have union material, and as we did not make it, he could not buy from us.

Q59. In connection with this statement did he tell you whether or not they had had any difficulties with his last shipments? A. Yes, sir.

Mr. Maloney: I move to strike the answer out, and object to the form of the question as calculated to make a narrative story; the questions should simply call for the facts, so that 789 we can see what connection it has with the preceding matter.

Q60. And what did he state to you?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay; not binding upon these defendants.

Mr. Maloney: Same objection.

A. He stated that they had discovered it was

non-union and refused to work on it if put on the job.

Q61. Who discovered that? A. The union delegates.

Q62. Did he state anything further in this connection?

Mr. Mayer: Same objection.
Mr. Maloney: Same objection.

A. He stated the circumstances as to how they were obliged to put it on the job; that they had to
791 put it on the job after the carpenters had knocked off work.

Q63. Is that all you recall?

Mr. Mayer: Same objection.
Mr. Beattie: Same objection.

A. He said that they struck on the job after the material was delivered to him.

Q64. Did he state who had struck?

Mr. Maloney: Same objection. I object to all evidence by this witness along these lines, and upon the ground that it is not the best evi-
792 dence; no reason given why Klein is not produced.

A. The carpenters. And he also stated that the other trades had struck as well.

Mr. Maloney: I move to strike that out as incompetent, irrelevant and immaterial; not binding in any way upon these defendants; hearsay.

Mr. Merritt: I assume you make the same objection to all this line of testimony?

Mr. Maloney: Yes.

Q65. That is, the other trades employed on that building. A. Yes, sir.

Mr. Maloney: I object to the production and examination of witness along this line unless, if it is claimed that it is material, the other witnesses who can testify to the facts directly, cannot be produced, as otherwise it is extending the examination entirely beyond any necessary length; if the other witnesses can testify to those facts, this witness's testimony is clearly unnecessary. 794

Q66. Did Mr. Klein state these facts to you as reasons why he could not handle your material? A. Yes, sir.

Q67. Did you see or converse with anyone representing himself to be a delegate of the Carpenters' Union at this time?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; also calling for a conclusion as to somebody representing the union. 795

A. Just prior to that time.

Q68. Prior to the taking of this order? A. No; just prior to the time the strike was on.

Q69. What was the name of this man, if he gave you the name? A. Simpson.

Q70. And did he state to you that he represented the Carpenters' Union.

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

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A. Yes, sir.

Q71. When and where did this interview take place? A. In my office.

Q72. Did you seek it? A. No, sir.

Q73. Did he ask to see you?

Mr. Mayer: Objected to as leading. This witness is entirely friendly to the plaintiffs, apparently, and is willing and able to state the facts if they are material.

A. Yes, sir.

797 Q74. Now I will ask you to give me the conversation. What did he say on entering your office?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial.

Mr. Mayer: And hearsay.

A. He introduced himself, handed me a card, stating that he wanted to see me about the material which Klein claimed he was getting from Harper Lumber Company.

Q75. Was it right at the commencement that he introduced himself as a delegate? A. Yes, sir. I
798 would have to give a history of that to answer that question.

Q76. I wish you would.

Mr. Mayer: I object to any history being given.

Q77. I mean a history of the conversation. A. He wanted me to use my influence to get the Harper Lumber Company's mill unionized. He evidently was under the impression that I had con-

trol of the mill. I told him that I was nothing but an agent and was concerned with only the selling, and that I had no authority and no influence in any way that I could influence them to unionize. He stated that they were going to send men to Meadville to try to unionize the mill; and he also stated that Klein's material was coming from Harper Lumber Company, and that we could not ship any more stuff from there unless the mill was unionized. The material was not coming from Harper, however.

Q78. It was the material that was coming from 800
Bristol? A. Yes; from Bristol. Klein had told him that it was coming from Harper, because he was under the impression that Harper's mill was partially unionized.

Q79. Did Simpson tell you that Klein had said it came from Harper? A. Yes.

Mr. Mayer: I move to strike out what the witness believed the impression of Klein was.

Q80. Is this the only time that you saw this man Simpson? A. Yes, sir. 801

Q81. Did he state anything further to you, that you recall? A. Well, during that conversation, I told him that I would have no influence at all, and that I tried to show him that I was only the agent in the way of selling, and he stated that I would have to have union mills if I intended to sell goods in New York; that after they had finished with New York, they were going to Brooklyn.

Q82. What do you mean, "going to Brooklyn"? A. To unionize Brooklyn.

Q83. Did he so state? A. Yes, sir. That came up

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for the reason that I told him I did not do a great deal of business in New York, but had done most of it in Brooklyn; he said it would not make any difference, that they were going to Brooklyn after they had finished with New York.

Q84. Then do I understand that this material which he referred to as coming from the Harper Company, was, as a matter of fact, the material which you have testified about as furnished to Klein from the Bristol Door & Lumber Company. A. Yes, sir.

803 Q85. Was there anything else said that you recall? A. I don't recall anything particular outside of that; there was general conversation.

Q86. Did he state to you anything about the unionization of mills? A. Just as I said, he said that unless I had union mills, I would not be able to sell goods in New York, and later on in Brooklyn.

Q87. Did he refer in any way to what a concern would have to do to become unionized?

Mr. Mayer: Objected to as leading. This witness is entirely friendly and has given us his entire recollection of the conversation between himself and this alleged union representative Simpson; incompetent, irrelevant and immaterial; hearsay.

804

Q88. Did he not state to you in reference to a certain mill, that it would be necessary to take the matter up with the National headquarters of the union at Indianapolis?

Mr. Mayer: I object as highly leading. Witness is entirely friendly and perfectly willing to testify to the facts.

805

A. Yes.

Q89. Do you recall that, now that I have refreshed your recollection? A. I recollect part of that now.

Q90. What was it exactly, as you recollect it now? A. About this Harper mill, in a general way, I asked him what the conditions were as to the requirements for unionizing, and he said that information could be had through the Indianapolis office, and he gave me the man's name, but I cannot recollect it. It was the United Brotherhood of Carpenters and Joiners of America, but he told me to write to a certain man connected with that.

806

Q91. And he gave the place? A. Indianapolis.

Q92. Would you know the name if you heard it? A. I would not remember the man's name, because I did not intend to write.

Mr. Mayer: I now move to strike out all the testimony of this witness in regard to any alleged conversations with either Klein or Simpson or both, on the ground that such testimony is improper, irrelevant, incompetent and immaterial; hearsay, and has been elicited by leading questions entirely and not by the witness's independent recollection; no proper foundation for his testimony has been laid, and it is in no way binding on these defendants.

807

Mr. Maloney: Same motion.

Q93. Did you talk to anyone else connected with the Tremont Moulding Mill at this time? A. Why, Mr. George Hagemeyer.

Q94. What is his connection with the company, with this concern? A. I think his connection on

that job was, that he had the original contract and turned it over to Klein.

Q95. Now, I will ask you if you now sell any merchandise to customers on the Island of Manhattan for the Bristol Door & Lumber Company?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, not proper proof.

Mr. Beattie: Same objection.

A. No, sir.

Q96. Are you engaged personally in soliciting
809 trade for this company? A. Yes, sir.

Q97. Are you familiar with the conditions which prevail in New York City in connection with the trade, in a general way? A. In a general way; yes, sir.

Q98. And can you give me the reasons, based on your experience, why you are unable to sell merchandise on the Island of Manhattan for the Bristol Door & Lumber Company?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Mayer: Objected to as incompetent, ir-
810 relevant and immaterial and in no way binding on these defendants; hearsay; calling for a conclusion on the part of this witness; no foundation has been laid for this testimony, and the witness's familiarity has not been sufficiently proved.

Q99. I want your answer based on your familiarity with the actual conditions and on your experience?

Mr. Mayer: Same objection.

811

A. Because the customers claimed that they could not use their material on account of its being non-union.

Mr. Mayer: I move to strike out the answer on the same grounds that I objected to the question.

Mr. Maloney: Same motion.

Q100. Do you still sell merchandise of the Bristol Door & Lumber Company to customers in the Borough of Brooklyn? A. Yes, sir.

812

Q101. Can you give me the amount of that trade in round numbers—trade in the Borough of Brooklyn?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. In what length of time?

Q102. Per annum, or on a basis of per annum. A. I think it would average about $40,000 or $50,000 a year.

Cross-examination by Mr. Beattie—

813

XQ103. How many firms do you represent as salesman, Mr. Worden? A. I have two or three little mills that do not count; they make special stuff, like columns and that material.

XQ104. I would like to know the number of mills you represent which make doors, windows and other woodwork covered by the action? A. Five. There is one here that you might just as well cut out, though, because I do not sell anything here in New York for them,—Roach & Musser,—but their material does not enter into New York at all.

814 Oliver L. Worden for Complainant—Cross.

XQ105. Do they make the same sort of material? A. Yes; they make windows and doors, but it is a class that is not used much here in New York, except the windows, and the windows I cannot sell alone, so I cannot ship them to New York. So they do not enter into the market here at all. It is in New Jersey.

XQ106. Did they ever enter into the market here at all? A. I could not say. I never sold anything here for them.

XQ107. How long have you represented them
815 here? A. Two years.

XQ108. Never sold anything for them at all? A. Not for that concern.

XQ109. Is that a union concern? A. I believe not; I am not posted on that.

XQ110. Besides the Bristol Door & Lumber Company, you represent the A. H. Fisher Co., Charleston; the Moore & Gallaway Co., of Fond du Lac; the Haddis Lumber & Veneer Co., of Wisconsin, and the Roach & Musser Co.—of where? A. Muscatine, Iowa.

XQ111. And the other day you said "and others". What others have you in view? A. I handle the
816 Eby Manufacturing Co., of Detroit, Michigan; they are manufacturers of columns, porch columns, and the Buckeye Turning Co., of Sydney, Iowa; they make columns, only; a solid column.

XQ112. Used in building? A. Yes, for porches. One makes solids and the others stave stuff.

XQ113. What other concern? A. Butler Woodwork Co., of Butler, New Jersey; they manufacture clothes posts.

XQ114. Salesman for any other concern? A. Not direct; once in a while we have an order that my

mills cannot make and I send it wherever anybody can fill it. It is very seldom I get anything of that kind.

XQ115. These first five mills that I represented, all make doors, windows and such tri, as is covered by the action? A. They do not all make everything, but they all make parts of it. If you want an explanation of that, I will tell you.

XQ116. The Bristol Door & Lumber Company—does it make everything? A. No.

XQ117. It is limited in what respect? A. They manufacture trim, wardrobe and dressers, and 818
stairwork, and solid chestnut and white wood, doors, and hardwood transom sash, or something of that kind, special stuff; they make no pine windows or pine doors or veneered doors.

XQ118. Well, the greater part of the business in Greater New York is pine doors and windows, isn't it? A. Pine windows, but mostly veneered doors, and the trim.

XQ119. And does this Bristol Company make veneered doors? A. No, sir.

XQ120. Well, in representing all these mills, it is up to you to say which one you will give a con- 819
tract to, isn't it? A. Yes, in a way, but the mills are specialized for different things, and combined they take in practically all of them.

XQ121. But they all cover some of the same thing? A. Very little.

XQ122. Are they all non-union, every mill you represent? A. I think they are.

XQ123. Do they make sash of 1⅜" and under? A. One of the mills does.

XQ124. Which one does? A. Moore & Gallaway. They make all thicknesses of windows.

XQ125. Well, how about this Haddis Lumber & Veneer Company? Do they make all sorts of windows? A. They make none. They make a flush door and veneered panels, that goes around the wainscoting.

XQ126. How about the A. H. Fisher Company? A. They make cypress material, blinds, windows, doors and mouldings, exclusively cypress.

XQ127. And do they make windows of 1⅜" and less? A. They make any thickness we order up to two inch.

821 XQ128. You say to some extent it is up to you to give an order to any one of these many concerns you represent, when you get a customer? A. Yes, sir. If they order cypress, it goes to Fisher.

XQ129. Well, you have not any choice about that, have you—nobody else makes it? A. Well, not in competition with Fisher—but the other mills do not care for cypress business, although they could make a little if we had to have it; but they do not care for it, so I do not solicit it for them.

XQ130. Do not all of these concerns make some of the things that the Bristol Door Company make, outside of the business in cypress? A. Not that
822 they care for, or that they would be able to compete with against Bristol.

XQ131. How about this Haddis Lumber & Veneer Company of Wisconsin? They are not limited in the sort of wood they handle, are they? A. No, sir; but they make no other kind of door except that special flat door without panels.

XQ132. How about the windows? A. They make no windows.

XQ133. They make no windows? A. No, sir.

XQ134. How about the mouldings and trim? A. They make no mouldings or trim.

XQ135. Does Moore & Gallaway make mouldings and trim? A. Not for this market. I never sold any for them.

XQ136. But you could sell them if you got the customers? A. I could not get their price.

XQ137. Did you say that all of these mills that you represent are non-union? A. As far as I know they are; yes, sir.

XQ138. Well, have you found the sales have been falling off in 1⅜ inch sash and less in diameter? 824
A. I never have sold much in the way of sash in New York; they sell them in the other states, mostly.

XQ139. It was simply because you did not solicit it, isn't it? A. I do not go after the sash business at all, to speak of.

XQ140. Then if you have lost any business in connection with the Bristol Door & Lumber Company, it has not been on sash? A. No, sir.

XQ141. What has it been on? A. Trim, mouldings.

XQ142. Any falling off in planed doors and ma- 825
chine made lumber, or different sorts? A. I don't quite understand that.

XQ143. Is there any falling off in your business with the Bristol Door & Lumber Company in connection with the sales of flooring and other machine made woodwork? A. We do not make floor. The Bristol Door & Lumber Company does not make flooring. I say they do not, but I do not know whether they do or not—I never sold any; I don't know that they do. They might make a little bit

826 Oliver L. Worden for Complainant—Cross.

if somebody wanted it. Flooring is not considered as trim, as I understand it.

XQ144. Flooring is not considered trim by you? A. No, sir.

XQ145. How long have you been salesman for all these concerns? A. For over two years.

XQ146. Has your business been mostly in Brooklyn during that time? A. No, sir; I sell in other states.

XQ147. You cover other states? A. Yes, sir.

XQ148. What other states do you cover? A.
827 New Jersey, Connecticut, New York.

XQ149. And represent all these different mills in those states? A. Yes, sir.

XQ150. And are you the only salesman of your concern? A. Why, I have my own men out.

XQ151. Well, don't you sell, yourself? A. I do as well; yes, sir, but I employ other salesmen.

XQ152. In other states, or here? A. In New Jersey; in different sections.

XQ153. Do you cover New York yourself? A. I cover part of New York, part of Brooklyn, part of New Jersey, part of Connecticut and part of New York.

828 XQ154. Yourself? A. I take the larger customers myself.

XQ155. It keeps you pretty busy, doesn't it? A. I guess it does.

XQ156. What does this Butler Woodworking Company make? A. They just make clothes posts.

XQ157. Have your sales in clothes posts fallen off very materially in the Island of Manhattan? A. Never sold any in Manhattan.

XQ158. Where do you sell them? A. Long Island and Jersey.

XQ159. All out on Long Island? A. Mostly. They use them more where there are single houses.

XQ160. Do you go out there yourself and sell these? A. In some of the towns I do.

XQ161. Hasn't there been a general falling off in business in all these different states that you sell in, during the last year or so? A. As far as mine is concerned, think not, I think I have done more business.

XQ162. Your business has been booming? A. I have been increasing and building up a trade.

XQ163. Well, was it in building material or 830
clothes poles, and that end of your business? A. The whole general line.

XQ164. The question only asked for the last year or so; hasn't there been a falling off? A. My business is increasing, because it is new business.

XQ165. When did you stop selling for the Bristol Company? A. I am still selling for them.

XQ166. When did you stop selling for them in Manhattan? A. The last shipment I made here was in October, 1910, with the exception of one car that was partially made up stuff of a canceled order.

XQ167. Whom have you seen since October, 831
1910, to try to sell any Bristol Door Company stuff to, in the way of contractors? A. The same three people that I sold before.

XQ168. Those three people you have testified about? A. William Klein, the Empire Door & Trim Co., the Van Nest Woodworking Company.

XQ169. Are those the only three people that you have seen since October, 1910, with the idea of selling them Bristol Door manufactures? A.

832 Oliver L. Worden for Complainant—Cross.

Those are practically the only ones I have seen myself.

XQ170. Well, is not this testimony you have given largely based on what other men have told you? How many other men have you got? A. Four.

XQ171. Do they work as salesmen, these four? A. Yes, sir.

XQ172. Do any of them work in Manhattan? A. Not along the line that would cover the Bristol stock.

833 XQ173. How many people have you seen since October, 1910, of contractors in Manhattan, with the idea of selling Bristol stuff to? A. I will say those three that I remember.

XQ174. You have not seen them since October, 1910, about it, have you? A. I have talked with them about the business since that; yes, sir.

XQ175. I thought they told you in October, 1910, that they did not want to do business with you any more? A. Yes, but I keep going to them just the same.

XQ176. Well, those are not contractors who build buildings, are they? A. No, sir; I do not sell
834 contractors for the Bristol.

XQ177. You sell to other mills? A. Yes, sir.

XQ178. Well, didn't you know that those three mills have been unionized? A. I knew that they said they had.

XQ179. And you knew you could not sell non-union stuff to union mills? A. I know I can't now.

XQ180. You had a good idea about it when you went to them? A. They unionized afterwards, they were not unionized when we first went to them.

XQ181. Have you tried to sell any of the Bris-

836

tol Door Company material to any of the large building contractors of Manhattan at all? A. No, sir.

XQ182. Never asked one of them to buy the Bristol goods? A. We do not sell to contractors. If we did, the mills would not buy from us. We sell to the mills and dealers.

XQ183. I am asking you, no matter what you do, you have not tried to sell to any large builder of this city, any of the Bristol Door manufactures since October, 1910? A. To the contractors, you say?

837

XQ184. Yes, to any of the builders? A. No, sir.

XQ185. Have you tried to sell to any mills in Manhattan since October, 1910? A. Yes, sir.

XQ186. Except those three you speak of? A. No, sir.

XQ187. Tried to sell to others? A. No, sir.

XQ188. You have not? A. No, not for the Bristol Company.

XQ189. How big a mill is this Empire Door & Trim Company? How many men do they employ?

Mr. Merritt: I object—unless the witness knows.

838

A. I could not say.

XQ190. It is not a large mill, is it? A. I was never in it but once, and I was just in the office there at that time.

XQ191. Why should that mill buy from you, it makes all these things itself? A. It makes its small lots, odd lots, but the big jobs they buy outside. They could not run those mills to that capacity, I presume, to what they would require on the job.

XQ192. Do they buy from you and then sell it as if your stuff was their own make?

Mr. Merritt: I object, because it does not appear that this witness knows how other people sell it.

A. I do not know.

XQ193. Well, Roach & Musser, which you also represent, handle doors and windows generally? A. Yes, sir.

XQ194. Did you know that the Paine Lumber
839 Company is doing a business still in Manhattan of $50,000 a year? A. No, sir.

XQ195. Did you try to get any of their business here? A. I do not know whose business it is, particularly. We just simply try to get it for ourselves.

XQ196. You know the Paine Lumber Company is a non-union concern, don't you? A. Yes, sir.

XQ197. And you say you cannot get business for the Bristol people in Manhattan? A. Yes, sir.

XQ198. You would find out what the contractors do? You know that the Paine Lumber Company
840 do a business of $50,000 a year now? A. No, I don't know.

XQ199. It would be a queer thing if they could get it and you could not? A. I think they go after doors and windows.

XQ200. You know the Paine Lumber Company makes the same things as the Bristol Door & Lumber Company, don't you?

Mr. Merritt: I object to this cross-examination because the witness has already testified that he does not know anything about the

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Paine Lumber Company and what they are doing and it is a persistent effort to get his testimony on subjects on which he is distinctly disqualified.

A. They make some of it, I think.

XQ201. Well, the very things that you sell for the Bristol Door & Lumber Company, doors and windows—you know they make them?

Mr. Merritt: Same objection.

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A. I have said before, that the Bristol do not make veneered doors.

XQ202. I am not talking about veneered doors or other doors that the Bristol makes? A. I do not come in competition with Paine on the class of doors Bristol makes.

XQ203. How about the windows? A. Bristol do not make windows.

XQ204. How about trim?

Mr. Merritt: Same objection.

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A. I could not recollect any competition that I have had with Paine on trim with the particular customers I call on in Manhattan.

XQ205. You are just referring to these three mills—these are the only ones you call on? A. Yes, I do not know anything about what they sell to others.

XQ206. Do you know that the Morgan Company is still doing a large business in non-union trim, doors and windows in Manhattan?

Mr. Merritt: Same objection.

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A. I don't know, sir.

XQ207. You have not found that out in your travels as salesman in Manhattan? A. I do not know.

XQ208. Are not some of these different plaintiffs in competition with your particular line, with the Bristol Door & Lumber Company, Gould Manufacturing Co., R. McMillen Company, Morgan Company, Lotham Cypress Co., Curtis & Yale Company, W. D. Crooks & Sons? A. I think some of them are on trim.

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XQ209. Don't you know they all are? A. Well, they don't bother me much. Though they make it.

XQ210. Who bothered you most? A. I got it mostly from other southern mills.

XQ211. Do any of these seven plaintiffs bother you? A. They have not bothered me in trim in Manhattan. In Brooklyn once in a while I run into a piece of theirs.

XQ212. Whose price have you run up against? A. Sometimes McMillen, and Morgan, and also Paine on trim in Brooklyn, but not in New York, not in Manhattan.

XQ213. You have had a pretty clear field on

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Manhattan as far as competition is concerned? A. On those three customers.

XQ214. And those are the only three customers you have had in Manhattan in the two years you have been in Manhattan in connection with the Bristol? A. I think I sold some wardrobes to one concern outside of that, that is all I recollect now.

By Mr. Maloney—

XQ215. For the Bristol people? A. Yes, sir.

Oliver L. Worden for Complainant—Cross. 847

By Mr. Beattie—

XQ216. How big a concern is the Tremont Moulding Mill?

Mr. Merritt: I object. It does not appear that the witness has any knowledge on the subject.

A. I don't know just how you mean, how big? I don't know how many men they employ. I could not say as to their capacity.

By Mr. Maloney— 848

XQ217. The quantity they use of the material from the Bristol which you supply, or are ready to supply? A. I could not say that, either. It depends on what they do not make, or how large their contracts are.

XQ218. When you had this conversation with Mr. Simpson, did you tell him at the beginning that you were only a salesman for the Bristol concern, and had nothing to do with the mill? A. I did not tell him I was salesman for the Bristol concern.

XQ219. You don't make a point on the name of 849
it, do you, the Bristol Door & Lumber Company? A. I did not tell himo I simply said I was agent for the mills and had no influence with the mills as to unionizing them or anything of that kind.

XQ220. You told him that at the beginning of the conversation? A. Practically at the beginning. But he did not know I was agent for the Bristol at that time.

XQ221. When did he come to know that? A. I never saw him since.

850 XQ222. You don't know whether he knew you were agent for Bristol at all? A. I don't know.

XQ223. But he did think you were? A. He thought I was Harper Lumber Company's agent.

XQ224. And you were? A. I am not agent for Harper. Once in a while I give them an order for stuff that our mills cannot get out.

XQ225. But did you tell him at the beginning of the conversation that your connection with the Harper Lumber Company was that of salesman or agent only, that you had no influence with them?

851 A. I simply said I had nothing to do except with the selling.

XQ226. And after that, he had this conversation with you about unionizing the mill? A. Yes, sir. You say the "beginning". That is a little different. In the beginning of the conversation I did not come right out and say I was the agent. After he asked me about whether the mill was unionized or whether it could be unionized, then I told him.

XQ227. Then after that he told you who you ought to see, and one thing and another? A. Yes, after that.

XQ228. Has your business been booming in

852 Brooklyn lately, for the Bristol Company? A. It is about holding its own.

XQ229. There has been no change there for the last couple of years in your business in Brooklyn? A. I think, if anything, it has been a little bigger.

XQ230. Been selling more of the Bristol Door & Lumber Company's stuff in Brooklyn of late than at the beginning of the two years of your connection with them? A. Yes. At the beginning I was building up the business, just starting.

XQ231. And it has kept building right up to

date in Brooklyn? A. Yes, sir; going right along.

XQ232. How about the Bronx—do you cover that, too? A. I don't sell anything up there.

XQ233. You find no interference in connection with your sales in Brooklyn? A. I have not as yet.

XQ234. Do you know whether the three concerns to which you sold material for the Bristol people in October, 1910, or prior thereto, have since bought material of the same kind from other concerns? A I could not say about that.

XQ235. Then how can you give as a reason for 854
the loss of their business, the reason which you have given? A. Because they told me that is the reason they could not buy from me.

XQ236. Then it was only what they said to you? A. Yes, sir.

XQ237. There is nothing that you know of your own knowledge? A. I am not in a position to know, other than through them.

XQ238. As I understand it, the only material that you sold for the Bristol people at all in Manhattan was what you sold to these three concerns, and once some wardrobes to some other concern? A. That is all I recollect. If there was anything 855
else, it was very small stuff.

XQ239. Were all these orders from these three concerns in or around August, September, October, 1910? A. No. Started about the first of April, 1910, when I commenced to do business with them, and ended about October.

XQ240. So that all your business with these three concerns was between April and October, 1910? A. Practically so, that is, the shipments were made about those times. The orders were

taken a little bit prior, of course; except one shipment, as I explained to you, came along in December, which was the fag ends of trim and material of that kind.

XQ241. That was part of the same order? A. Yes, sir.

XQ242. This man who came to see you and whose conversation you have related, Simpson, did he call to see if you could use your influence to unionize the Harper Lumber Company's mill? A. That is what we talked about.

857 XQ243. Did he talk with you at that time about unionizing any other mills that you represented, or did he appear to know that you represented any others? A. I told him I represented other mills.

XQ244. And then he suggested that you unionize them all? A. He said that if I wanted to do business in New York I would have to sell for union mills.

XQ245. Did he say that if you wanted to do business in New York you would have to unionize your mill, or did he say that the union men would not work on material unless it was from union shops? A. No, he said we would have to have

858 union made material if we wanted to do business in New York.

XQ246. Did you ask him why? A. I knew, I did not ask him.

XQ247. How did you know what was the reason? A. I knew the general conditions around.

XQ248. That they would not work on that material? A. That there had been strikes on jobs on account of being non-union.

XQ249. Your understanding of his conversation was, then, that the union men would not work on

the material unless it was union made material? A. That was what I surmised from his conversation, that they would not put up material unless it was union made.

XQ250. He did not tell you that they would destroy your business, or threaten you personally, or use any violence, or threaten any violence to you, or anybody you represented, did he? A. He did not threaten at all. He simply told me that if the mills were not union mills, we could not sell the material.

XQ251. But the reason he gave, or the reason 860
you understood was, that the union men would not work on that material? A. That was my understanding. He did not use any language that would threaten me or anything of that kind.

XQ252. And you asked him for information as to what was necessary to do in order to unionize the mills in case you desired to do so? A. Yes, sir.

XQ253. And he gave you that information? A. Told me where to get it.

XQ254. Then you afterwards found, when you called on these three concerns with whom you had previously dealt, that they had unionized their mills? A. I understood that was what they had 861
done.

XQ255. I understood you to say that Groll guaranteed Klein's account? Is that right? A. Yes, sir; for my material.

XQ256. For the material you sold? A. Yes, sir.

XQ257. Who was Groll? A. P. J. Groll—he is the owner of the building.

XQ258. Of the building where the material was being put up? A. Yes, sir.

XQ259. Was that just a corporation organized

for the purpose of putting up that building, or was he a general contractor or builder? A. I cannot say positively, but I think it was just simply for that building.

XQ260. Mr. Groll owned the building and had this name of P. F. Groll Construction Company? A. Yes, sir.

Mr. Merritt: I move to have these two questions and answers stricken out on the ground that the witness has testified he does not know,
863 that it is only a surmise on his part.

XQ261. Why did you get Groll to gurantee Klein's account? A. Well, I did not think that we wanted to extend credit to them—to Klein.

XQ262. These strikes that you say took place on some jobs, you do not know that any strike took place, yourself, do you? A. I did not see it myself.

XQ263. All you know is, that Klein said to you, that some strikes had taken place on some material? A. It came from Klein and Groll and Hagemayer.

864 XQ264. And was that with reference to the Groll building? A. Yes, sir.

XQ265. Did the strike take place before or during the time that the Bristol material was being delivered to Groll's place? A. After it was put on the job, I understood.

XQ266. Then the carpenters afterwards went and put the material up in the building? A. I don't know who put it up.

XQ267. It was put up, nevertheless? A. We served notice on Groll for the payment of it, and I

guess he managed to get it in some way, I don't know how.

XQ268. Did you go to the building? A. I never was there.

XQ269. Where is Klein now? A. In the same place of business, I think, on Park Avenue.

XQ270. And Groll, at the same building there, as far as you know? A. I think he lives there.

XQ271. He lives in the building? A. Yes, but I understand he has another building somewhere on 3d Avenue, near 52d or 53d Street. He was in the saloon business. 866

XQ272. And what is the other man? A. Hagemayer?

XQ273. Where is he? A. In Fordham Square, I think his office is.

XQ274. Is he a competitor of yours? A. He goes around to these contractors and gets jobs for them and then turns them over to these different mills, or sells them on his own hook.

XQ275. I understood you to say you do not sell builders and contractors, only dealers and manufacturers? A. Yes, sir; that is, on the Bristol mill goods. 867

XQ276. What are dealers? A. People having lumber yards or mills, that sell to the contractors.

XQ277. And the manufacturer, is he in part the same as a dealer, does he sell directly to the contractors? I mean the mill? A. Like Klein, for instance?

XQ278. Yes? A. Yes, they sell the contractors.

XQ279. So that there is no difference between the mill man and the dealer with respect to sales to contractors and builders? A. I think not, only that the mills have a little preference for a dealer,

868 because they make more or less their own material. That would be the only difference.

XQ280. Was the Bristol material principally odd material, or was it stock work? A. Well, it would be run to the party's pattern, but it was large quantities.

XQ281. It was, in other words, special work, but it was in large quantities? A. Yes, sir.

XQ282. In the sales of your trim principally it is not special work, but uniform, or stock work, is it not? A. Well, it is special work for us, but it is
869 run to a pattern that might be specified by the customer. Nearly all customers use different patterns of trim.

XQ283. Then the business you have built up is largely special and not this stock trim which is used in such large quantities in New York? A. Some of them carry it in stock, but it is in their patterns. We are not in a position to know where it goes as a general thing.

XQ284. Would you say it was special or stock, uniform? A. I would call it special, as far as our mill is concerned. But it might be stock for the party we sell it to. I would not know whether it
870 was stock or job, generally.

By Mr. Mayer—

XQ285. To summarize your testimony, you have dealt practically alone with Klein, the Empire Company and the Van Nest Woodworking Company, with the exception of this one wardrobe sale, on the Island of Manhattan? A. That is, for the Bristol stock.

XQ286. And each and every one of these three

concerns discontinued doing business with you when their shops became unionized, is that so? A. I do not know when the shops became unionized.

XQ287. But when their shops did become unionized, you ceased to do business with them? A. I understand that their shops are unionized.

XQ288. And you no longer do business with them? A. No, sir.

XQ289. And your testimony with regard to conditions in New York is based upon what Klein, Hagemeyer and Simpson told you, generally? A. I have heard a lot more, but those three are my 872
cases that I have come in contact with.

XQ290. And what other people may have told you in the course of your walking through the market, is that so? A. Yes, sir.

XQ291. You have no direct knowledge on any of these subjects, have you, except what these people may have told you? A. Except what they tell me.

XQ292. Did you try to put Simpson right when he called on you and said that you represented the Harper people? A. I did not.

XQ293. You carried out, then, the scheme of Klein to mislead the union? A. I did not say any- 873
thing about it, as far as that was concerned.

XQ294. But you said nothing at all to Mr. Simpson that would change his idea that you represented the Harper people? A. No, sir.

XQ295. So that while Simpson was there, you were continuing to mislead him as to the Bristol people not having furnished this trim? A. I was not going to tell him where it came from—it was none of his business.

XQ296. Then while you were in this mood of not telling him anything because it was not his busi-

ness, and continuing to mislead him so that he would still believe that the stuff came from the Harper people, he, on the other hand, was trying to induce you to have the mills that you represented unionize their shops, is that so? A. That is the way I understood it.

XQ297. And that was the attitude of both of you at that time? A. I just did not give him any information, that is all.

XQ298. Are you in competition in your business with the four woodworking defendants in this case:
875 Murry & Hill Co., Harlem River Woodworking & Lumber Co., James C. Forbes and the Empire City-Gerard Co.? A. I would not come in competition with them on Bristol's material. They would be the class of people I would want to sell to if I could.

XQ299. You have never tried to sell any of these four? A. Not any of these people.

By Mr. Beattie—

XQ300. What territory do the Empire Door & Trim Co. cover in their sales, do you know? A. I do not know, sir.

XQ301. Where is there mill? A. I could not tell
876 you exactly the location. I think it is around 135th Street. I have been there once, but I could not tell you exactly where that mill was.

XQ302. Don't you run across them in competition, in other states, as well as—— A. No, we would sell to these people, and not come in competition with them.

XQ303. How about the Van Nest Woodworking Company, where is their mill? A. In the Bronx.

XQ304. Do you know in what territory they sell their products? A. I do not.

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XQ305. Do you know whether they sell anything in Manhattan at all or not? A. I always understood they traded around in their section up in the Bronx; I don't know just where they do sell.

XQ306. How about the Tremont Moulding Mills? Where are they locaated? A. They are on Park Avenue.

XQ307. The mill? A. Up about in the neighborhood of 130th Street—above that somewhere.

XQ308. Do you know what territory they sell in? A. I could not say exactly what territory they sell. All I know is this one particular job that I 878
came in contact with.

XQ309. Didn't you have any difficulty with Mr. Klein of the Tremont Moulding Co. because you would not extend a credit of $1,500. to him? A. No, sir.

XQ310. You did not think he was worth it, that those mills were not good for that credit, did you? A. Well, I limit my credits to a certain extent. I have to look out for the mill's interests in financing them. I did not think we cared to extend a credit in the neighborhood of $1,500.

XQ311. It was based on your idea of the financial responsibility of that mill? A. And the mer- 879
cantile ratings.

XQ312. Did not Mr. Klein complain about your wanting to have that bill endorsed by the Groll Construction Company? A. No, sir.

XQ136. Did he not complain about it? A. No, sir.

XQ314. How much of the credit did you think the Tremont Moulding Mills could be given by your firm, safely? A. I figured on a mill of this kind about $500 or $600.

XQ315. That is about all the credit you would give that firm? A. That is why I am handicapped in New York and elsewhere, on account of my mills being very strict on credits.

XQ316. It is based, of course, on your ideas of what the mill is good for. A. Yes. I use my judgment, and then the mill itself finally passes on it, but there are a great many people in New York and Brooklyn and elsewhere that I do not call on because I do not think they are entitled to much credit.

881 XQ317. Is that the biggest of the three mills that you do business with—the Tremont Moulding Mills. A. The Empire.

XQ318. The Empire was the largest? A. Yes, sir.

XQ319. Did you have any trouble with the Van Nest Company about the amount of credit you would give them? A. Well, we had to watch the credits pretty carefully.

XQ320. A pretty shaky concern, isn't it? A. I don't know whether they were what you would say shaky, but we did not want to get in too deep with them on account of some of their past history.

882 XQ321. And you had this talk about credits shortly before you ceased doing business with them? A. I never had any particular talk with them on credits, with the Van Nest people. We would use our judgment in soliciting their business. When we thought we had enough we would not go after any more.

XQ322. You would tell them they were up to their limit? A. Usually, that business was solicited by us. It was not offered to us voluntarily as

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a general thing, and when we thought we were in deep enough, we would keep away from them.

XQ323. You would let the Van Nest Woodworking Company get up to $500 credit? A. We did.

XQ324. Was that about their limit? A. No, sir. We would give them credit for $2,000 to $3,000.

XQ325. Did you consider they were worth that much credit at the time you ceased doing business with them? A. I think they had a fire shortly after that. I think they burned down about a month or so after, if I recollect correctly.

XQ326. They burned down about the time you ceased doing business with them? A. After that, I believe.

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XQ327. How long after that?

Mr. Merritt: I object to this question because it does not appear that this witness actually knows about the burning down, or whether or not they rebuilt or anything of the kind.

A. I could not just say the date of it, but I know it burned down later.

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Re-direct examination by Mr. Merritt—

RDQ328. The Van Nest Woodworking Company is still in business, isn't it? A. I think it is called the Westchester Woodworking Company now.

RDQ329. Is that the successor of the other concern? A. It is, as I understood; after the fire two of the members organized another concern, and I do not know whether the old Van Nest concern is operating now or not.

RDQ330. Now, I understand that none of your

business in Brooklyn is for 1⅜" sash with the Bristol. A. No, sir.

RDQ331. You stated that flooring did not come under the head of trim. What head does it come under, when you speak of doors, sash, trim, windows, etc? A. I don't know; I should call it a separate commodity. Trim is supposed to be the standing woodwork, the woodwork that goes around the wall.

RDQ332. As I understand it, flooring is not classed under trim at all? A. I would not consider
887 it so at all.

RDQ333. Do you know what it is? A. I do not, because I do not handle it at all.

RDQ334. You spoke about a cancelled order which you had filled later on. For whom was that order? A. Empire Door & Trim Company.

RDQ335. Did it have any relation to any of these matters that you have been testifying about? A. Yes, sir.

RDQ336. What was the reason given for that cancellation?

Mr. Mayer: Objected to as incompetent
888 irrelevant and immaterial; hearsay; not binding on any of these defendants.

Mr. Maloney: Same objection.

A. It was part of the orders we had in the work, that they wanted us to cancel, that they could not deliver it on the job, and they had two cars in at the time they claimed they could not deliver, and they wanted us to cancel the balance of the order if we could.

RDQ337. Then this account of the reasons given

you by the Empire for not continuing business, the same reason is given in connection with the cancellation? A. Yes, sir.

RDQ338. Do you know on what date the Empire Door & Trim Company unionized? A. I do not.

RDQ339. On what date the Van Nest Company unionized? A. I do not.

RDQ340. Or on what date the Tremont Moulding Company unionized? A. I do not?

RDQ341. And do you know whether or not they were unionized at the time you were doing business with them? A. Klein was not; I understand 890
Van Nest was not; and I understand that Empire had unionized later on, but whether I had these orders at the time or not, I do not know.

RDQ342. Do you know whether or not the dates of unionization were practically the same as the dates when they stopped doing business with you? A. I cannot say that. They said that that was the reason that they could not buy from us, that they had to buy union made trim. Part of that material which was cancelled was in the work before it was cancelled, and they took it off our hands because it was made up on an order.

RDQ343. And you cannot state of your own 861
knowledge, then, as to whether the mills were unionized approximately on the date when you said they could not go on doing business with you? A. Not from my own knowledge; no, sir.

RDQ344. You have been asked here concerning your competition with various others of the plaintiffs, and I believe you testified that you ran into them in only certain limited ways. Does that testimony simply refer to the instances where it came to your attention that these concerns were submit-

ting bids for the very work that you were seeking? What did you mean when you said that you ran into them only in limited, particular instances? A. Well, I come in contact with them on the trade that I call on myself; that is, what trade I called on; I did not run into them very much, particularly on trim. In some instances they would quote prices to some of these people that I was selling.

RDQ345. Then the instances where you know of their competition, are the instances where you know that they were quoting prices in competition
893 with you? A. Yes, sir.

RDQ346. Is business conducted in a way where you would know, for instance, whether they were competing with you? A. No; I don't suppose I would know every instance, but I do know a good many of them. A dealer will always go after you on lower prices than you quoted him.

RDQ347. A dealer will frequently tell you who is bidding? A. Very often I see it. Your own customers, if they are friendly, will show you the quotations.

RDQ348. You were asked by Mr. Maloney as to what your understanding was, as to the reasons
894 back of Mr. Simpson's statement that you could not do business in New York, and I want to ask you whether your understanding was that the union men themselves would not handle the materials, or that the delegates would not permit them to handle the materials.

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: I object as improper; a new question, and leading your own witness, offering a suggestion to him.

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Mr. Mayer: And as usurping the functions of the witness.

Mr. Maloney: And as endeavoring to impeach his previous testimony on this subject.

A. My understanding was, that it could not be used. That is about the way I looked at it; that it could not be used by the unions unless it was union made. I don't know whether that covered delegates, or officers, or the men themselves.

RDQ349. You understood, as a matter of fact, that the union men on many buildings did refuse to handle the material?

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Mr. Mayer: Objected to; no foundation being laid.

RDQ350. And you do not understand as to the reasons for their so doing; is that the situation?

Mr. Beattie: Same objection.

Mr. Maloney: And as an attempt to impeach the witness's testimony. He has already testified that he understood the reason was that the union men would not work on the material unless made under union conditions.

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A. My understanding is, that the unions would not use it on account of its being non-union trim; by unions, I mean what is embodied in the union; I don't know who are the ones to say they cannot use it.

Subscribed and sworn to before me)
this day of , 1911.)

Hearing adjourned to Friday, October 27, 1911, 2 P. M.

898 William Biggart for Complainant—Direct.

PAINE vs. NEAL.

Friday, October 27, 1911, 2 P. M.

APPEARANCES:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

CHARLES MAITLAND BEATTIE,
and
WILLIAM P. MALONEY,
899 For defendants Neal and others.

C. J. HARDY,
By F. B. Whittaker,
For James Elgar, Inc.,

WILLIAM BUTLER, Esq.,
By Mr. Mayer,
For defendants Murray & Hill Co., Jas. C. Forbes, Harlem River Lumber & Woodworking Co., Empire City-Gerard Co. and David W. O'Neill.

EIDLITZ & HULSE,
By Mr Mayer,
900 For defendants Gethy and others.

WILLIAM BIGGART, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your age? A. Fifty-three.

Q2. And what is your business? A. Manufacturer of woodwork.

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Q3. With what concern are you connected? A. Empire Door & Trim Company.

Q4. How long have you been connected with that concern? A. Since the first day of January, 1910.

Q5. And in what capacity are you connected with it? A. President and treasurer.

Q6. And have you been president and treasurer since that day? A. Ever since.

Q7. How many people does that concern employ, approximately? A. That is, of every kind?

Q8. Yes. A. Usually about fifteen.

Q9. Where is its factory located? A. The fac- 902
tory is 289-291 East 135th Street, Bronx.

Q10. And where are the principal offices? A. 5 and 7 East 42d Street.

Q11. And this concern, I understand, manufactures doors and sash, trim, and other kinds of wood material? A. Everything of that kind.

Q12. Do you operate what is known as a union mill? A. I do.

Q13. Under agreement with the Carpenters' Union? A. I do.

Q14. Is that agreement in writing? (Witness produces agreement).

Q15. That is the agreement, which you hand me? 903
A. That is the agreement.

Mr. Maloney: I object to any testimony from this witness along these lines, on the ground that it is incompetent, irrelevant and immaterial, and in no way binding on these defendants and has nothing to do with the allegations in the bill of complaint; it appearing that this Empire Door & Trim Company is not a party to this suit and is a union mill, employing union men.

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Mr. Merritt: I will ask to have this agreement marked "Complainants' Exhibit 7" for identification.

Mr. Mayer: I object on the same ground.

Agreement marked "Complainants' Exhibit 7 for Identification."

Q16. Referring to this Exhibit 7 for identification; did you sign it? A. I did.

Q17. For your company?

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Mr. Maloney: I object to examination on an exhibit marked for identification. I think it is not proper to refer to papers not in evidence.

A. Yes.

Q18. And was this executed on or about March 29, 1910, the date appearing at the top? A. I believe that is the date; yes, sir.

Q19. Prior to the execution of this agreement did you operate a union mill?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial and having nothing whatever to do with this litigation.

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A. I did.

Q20. And your mill was union before this agreement was made? A. It was.

Q21. And it was operated according to the rules of the Joint District Council of the Carpenters' Union, as you understand them?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, calling for a conclusion on the part of this witness; in no way binding on these defendants and having no

connection whatsoever with the issues shown by the pleadings in this case.

Mr. Maloney: Same objection.

A. It was.

Q22. Did you see these other men sign this agreement—Harry L. Cook, Arthur A. Quinn, Fred J. Bush, General Organizer?

Mr. Maloney: I again object to the reference to the agreement. There is no agreement of that kind in evidence; no names of that kind, and refers to a paper marked for identification; an improper method of examination. 908

A. I did.

Mr. Merritt: Then I offer this agreement in evidence.

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; not properly proven; in no way binding on any of these defendants; in no way connected with the issues in this case; wholly improper.

Mr. Maloney: Same objection, and as hearsay. 909

Agreement marked "Complainants' Exhibit 7, October 27, 1911."

Exhibit 7 reads as follows:

ARTICLES OF AGREEMENT.

Entered into on the 29th day of March, 1910.

ARTICLE I.

The intent of this Agreement is to lay foun-

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dations for peace in the Mill Work Industry, and the bringing about of uniformity as to hours, wages and general conditions, and to provide for the settlement of any and all grievances that may arise between the Empire Door & Trim Co., parties of the first part, engaged in the manufacturing of Doors, Sash, Window Frames, Mouldings, Interior Trim, etc., and the International Union, United Brotherhood of Carpenters and Joiners of America; General Offices, Indianapolis, In-

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diana, and its subordinate Union known as Joint District Council of New York, parties of the second part.

ARTICLE II.

The party of the first part, Empire Door and Trim, agree to confine themselves strictly to the manufacturing of Mill Work Material as herein specified, and agree further that they shall not engage in installing or erecting material in any buildings, or sublet the same to be erected or installed in any building.

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And the party of the second part agrees that none of their members will erect or install non-union or prison made materials, it being understood that Window Sash 1⅜" thick and under, and Exterior Window Blinds, are not covered under this Agreement, except that these shall not be prison made.

ARTICLE III.

The parties of the first part hereby agree to hire none but members of parties of the second

part in good st[illegible]g of the United Brotherhood of Carp[illegible] and Joiners of America who carry wo[illegible] cards of the subordinate union District Council, and the parties of the second part agree to furnish to the parties of the first part union men, and if such men cannot be furnished by the parties of the second part, then only such men that are willing to join this Organization shall be hired by the parties of the first part.

ARTICLE IV. 914

The party of the second part agrees for its members to erect all material handled by the parties of the first part manufactured in shops under agreement with party of the second part. And the party of the second part further agrees that none of the members of their Organization shall erect any material known in the Trade as Mill Work specified in this Agreement which has been made in prisons or non-union factories, except as specified in this Agreement.

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ARTICLE V.

The Business representative of party of second part shall be allowed access to shop or mill by making application to office of party of first part.

ARTICLE VI.

Forty-eight hours shall constitute a week's work. No overtime shall be allowed under the terms of this Agreement only to save life

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and property; then only at the rate of double time, double time for Sundays and all legal holidays. No work shall be allowed on Labor Day under any circumstances.

ARTICLE VII.

It is further agreed that no work shall be performed on Saturday afternoon, both parties to this agreement recognizing Saturday afternoon and the following as legal holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Decoration Day, Independence Day, Labor Day, Election Day, Thanksgiving Day and Christmas Day.

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ARTICLE VIII.

The minimum rate of wages to all Bench and Machine hands shall be $17.00 per week, and it is further agreed that the better grade of mechanics shall receive a higher rate of wages, as agreed upon between employer and employees.

ARTICLE IX.

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No mechanic receiving a higher scale of wages than is herein provided shall suffer any reduction by reason of this Agreement, or during the life of this Agreement.

ARTICLE X.

The party of the first part may employ one (1) apprentice for every eight (8) machine hands, and one (1) apprentice for every eight (8) bench men. Each apprentice to be under

twenty-one years of age and shall serve a term of four years.

Wages for apprentices:

First year,	$6.00	per	week.
Second "	8.00	"	"
Third "	10.00	"	"
Fourth "	12.00	"	"

Apprentices upon becoming journeymen shall receive the minimum wage as herein provided.

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ARTICLE XI.

Laborers or porters shall not be permitted to run or feed machinery or do any work that requires the use of carpenters' tools.

ARTICLE XII.

This agreement expires on Jan. 1st, 1913, and in view of the fact that existing contracts have been entered into by by the party of the first part based upon the present mode of operation, it is hereby agreed by the party of the second part that 3 days shall elapse from 921
the time of signing of this contract to give the party of the first part time to fulfill contracts now on hand before the working conditions called for in this Agreement shall take effect.

ARTICLE XIII.

In the event of any disputes arising between the parties to this Agreement, each party shall appoint a Committee of three, with full power to act. All questions in dispute coming be-

fore this board to be settled by a majority vote of the members present and voting, and in the event of a tie vote, by the decision of an Umpire, who shall be chosen by the Joint Committee, and whose decision shall be binding upon both parties.

ARTICLE XIV.

It is further agreed by parties to this Agreement that at least sixty days prior to the expiration of this Agreement, both parties shall
923 meet for the purpose of considering the following questions:

First: Are conditions in the Trade such as will warrant a reduction of hours to forty-four (44) hours per week?

Second: What shall be the minimum rate of wages that shall prevail under the new Agreement? It being understood that the burden of proof shall be upon the United Brotherhood of Carpenters to show that they control the trade to a sufficient extent to warrant any reduction of hours or increase of wage.

Signed party of first part:

924 EMPIRE DOOR AND TRIM COMPANY,
W. BIGGART,
Pres.

Signed party of second part:
FRED J. BUSH,
Gen. Org.
HARRY L. COOK,
ARTHUR A. QUINN.

Endorsed:
"Agreement with International Union, March 29th, 1910."

925

Q23. Will you state the circumstances, Mr. Biggart, which led you to sign this agreement?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants.

A. The circumstances were entirely harmonious. It was my desire to enter into such relationship with them. That is all I know. I intimated my willingness to enter into such an agreement, and that is what led it to be brought into effect.

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Q24. Did you go to these men and ask them if you could make an agreement like that, or did they ask you to make an agreement like this?

Mr. Maloney: Objected to as irrelevant and immaterial, as to how, when and where and under what circumstances it was made. The agreement speaks for itself and embodies everything that was agreed to between the parties.

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A. It would be hard for me to state exactly. I did state to my employees that I wished to enter into such arrangement. I know I did not send them a written invitation to call, because they had expressed themselves so frequently on the subject, but no doubt the information was carried to them in some shape, and that led them to call on me. That expresses it as near as I can make it.

Q25. That expresses it as far as your recollection goes? A. It does.

Q26. You have formerly dealt with the Bristol Door & Lumber Company, have you not?

Mr. Maloney: Objected to as incompetent,

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irrelevant and immaterial, having nothing to do with this case, whether he did or did not.

A. I should have to look at my records, but I am under the impression I did not, just about that time.

Q27. You never dealt with the Bristol Door & Lumber Company? A. I did.

Q28. That is what I am asking. A. You asked me prior to this, if I understood you. I think that was your question.

Q29. You have dealt with them since the execu-
929 tion of that agreement? A. I have.

Q30. Are you still dealing with them?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; in no way binding on these defendants.

A. I am not.

Q31. Were you ever spoken to by anyone representing himself to come from the Carpenters' Union objecting to your dealing with the Bristol Door & Lumber Company?

Mr. Maloney: I object. This witness is
930 called as a witness on behalf of the complainants and is being examined by the complainants' counsel as if he were a witness on behalf of the defendants, and being asked leading questions.

A. My recollection is, not in explicit terms, but I assume it was in connection with that, in fact, so far as I was concerned, it was.

Q32. And who was the person who spoke to you. A. The first intimation I received came through the

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owner of the building to which I was supplying material.

Q33. Who was that? A. That was the Flemish Realty Company.

Q34. Did they represent themselves to come from the Carpenters' Union? A. They did not.

Q35. I asked you whether you had ever been spoken to by anybody representing themselves to come from the Carpenters' Union?

Mr. Maloney: He answered that. He said he did not know, but thought it might be so and gave his reasons.

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A. I am reasonably sure that I was, but I could not state who approached me on the subject.

Q36. And you have not any name in mind? A. I discussed the matter with various ones connected with the union.

Q37. What were their names? A. Mr. Cook.

Q38. Mr. Harry Cook? A. Mr. Harry Cook. Mr. William Simpson, and one or two others whose identity I am not familiar with.

Q39. And what did these men say to you?

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Mr. Mayer: Objected to as incompetent, irrelevant and immaterial and the men not properly identified. This testimony is not in any way binding on any of the defendants and hearsay.

Mr. Maloney: Same objection.

Q40. Mr. Cook is the same man who signed that Exhibit 7? A. The same one.

Q41. What did these men say to you?

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Mr. Maloney: Same objection.
Mr. Mayer: Same objection.

A. He claimed I was not keeping up to my agreement

Q42. Referring to Exhibit 7? A. Referring to Exhibit 7.

Q43. What else did they say? A. That was the burden of all the communication I had, was just that one point, that I was not living up to my agreement.

935 Q44. Have you told me all that you remember concerning this matter? A. I have, so far as your questions have required an answer.

Q45. I want you to give me in detail, as far as you recall, all the circumstances surrounding any objection to the use of this material. A. If you wish a statement of occurrences that took place in connection with it——

Q46. I do.

Mr. Maloney: I object to this line of examination, on the ground that the witness's attention is not called to anything specific at all, he is being examined generally about objections made to material, no objections having been referred to so far, and the questions are asked in such form that it is impossible to cross-examine about them.

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Q47. Now if you will make the statement, Mr. Biggart. A. Well, we furnished this material, some material, we had purchased from the Bristol Door & Lumber Company, and did considerable work on it in our shop. We then delivered it to the building for which we had the contract and as stated,

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I was notified by the builders that the unions objected to it not being union made goods and would not erect it.

Mr. Mayer: I move to strike out the answer as being hearsay evidence, incompetent, irrelevant and immaterial.

Mr. Maloney: Same motion.

Q48. Is that all you recall? A. I recall that I had to make the material over again; that is a part I never could forget.

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Q49. Did any of your employees quit work at that time?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; tending to assume something by the question which has not been proven by the answers; not within the issues in this case and not binding on these defendants.

Mr. Maloney: Same objection.

A. They did. The member called out the shop, much to my astonishment.

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Q50. Do you know who called them out? A. I do not.

Q51. Did you have any——

Mr. Maloney: I object to that question, inserting in a question, "Do you know who called them out"? There is no evidence that anybody called them out, and the method of examination is such that it is calling for conclusions constantly.

Q51. Did you have any conversation with any

940 of these men you have named, concerning the fact that your men had left the shop?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants.

A. I did.

Q52. With whom? A. Mr. Cook.

Q53. What did Mr. Cook state?

Mr. Mayer: Same objection; incompetent, irrelevant and immaterial; in no way binding upon these defendants; hearsay.

941 Mr. Maloney: Same objection.

A. I would have to first state the statement I made; all he did was answer my statements.

Q54. Well, give the conversation.

Mr. Maloney: I object to statements which might have been made by this witness to somebody else as in no way binding upon these defendants; incompetent, irrelevant and immaterial; hearsay.

942 A. I endeavored to discover why the men were not at work. Having intimated my willingness to harmonize with the unions, I was surprised that the men did not continue at work, but I was told that some of the officers of the District union had called the men out and it had to be taken up at a subsequent meeting.

Q55. You were told this by Mr. Cook? A. Mr. Cook. I was invited to call and see them, which I did.

Q56. Where? A. At the headquarters, 59th

Street. I made a statement of my case and received no satisfaction; in fact, I made my statement and practically got no reply. But in a few days the men went back to work.

Q57. Who was there at that meeting that you knew? A. Mr. Cook was present; I am not sure as to whether Mr. Quinn was there; Mr Neal I am not sufficiently acquainted with to know whether he was there, but I rather think he was. I would not like to be understood as declaring that he was there. There were two or three others that I never met. 944

Q58. Were there four or five men there in all? A. Five, I think.

Q59. And you have given, as far as you recall, the conversation which took place? A. It was not much of a conversation; I was, it was more of a statement on my part and no definite answer, except in so far as they said they would consider my statement.

Q60. What was your statement? A. Just what I have said,—or perhaps I did not say. I told them firmly and explicitely that there was no intention on my part to conduct anything other than a union 945 shop; had not been from the start; there was entire willingness on my part to continue it that way, and assuming that they had, I was surprised that they had called the men out.

Q61. Didn't they at any time state to you any of the conditions under which the men would be permitted to return? A. If you would allow me to add a little more to what I have said. Among the things I told at that interview that night was, that I was thoroughly convinced that this thing was brought about by my competitors in the busi-

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ness. I still think so. This thing was brought about by these people trying to keep me out of business, being the first year started in with this new business, which I did not assume they were pleased to see.

Q62. You told them that? A. I told them that very emphatically.

Q63. I will ask you if they stated to you any of the conditions under which the men would be permitted to return? A. They did not.

Q64. And you stated that they told you that you
947 had broken your contract with them. Did they state in what respect you had broken your contract? A. Yes; in purchasing this material from the Bristol Door & Lumber Company. That was the only question at issue.

Q65. You stated that the men subsequently returned to work? A. They did.

Q66. Without any explanation? A. The men would not make any explanation.

Q67. Nor any explanation from any of these officers that you were talking with? A. Well, I had endeavored to clear the situation so that there would not be any question. I removed the material
948 from the building in 22d Street, put it uptown in storage.

Q68. You are referring to the material purchased from the Bristol Door & Lumber Company? A. Yes.

Q69. Did you remove this material after the men went out? A. Before.

Q70. Before they went out? A. Well, I was removing it the very day the men quit work.

Q71. Did you remove it all in one day? A. Two or three days at the outside.

Q72. What time of day did the men quit work?

Mr. Maloney: I object to this; the time and all these details; it is certainly incompetent, irrelevant and immaterial. It is simply lumbering up the record.

A. I am not sure whether they actually quit work during working hours or failed to show up in the morning. I don't think they put in any part of the day.

Q73. What do you mean by stating that you removed the material or were removing the material 950
when the men quit work? A. I had material which I had delivered to the building, and I also had some material in the shop. It was what I had in the building and what I had in the shop I was putting in storage outside.

Q75. Well, you removed the material from the building and from the shop, both; is that true? A. Most of it; yes.

Q76. And you put it in storage? A. Well, my own storage; I hired a place to put it in. I call it storage because it was apart from the rest of the things.

Q77. You hired a special place for it? A. Yes. 951

Q78. Now I want to ask you whether you removed this material before or after the men quit work? A. I think I said that I had a lot of it taken out of the building to which I delivered it and I had also removed a lot from the shop prior to the time the men went out.

Q79. You had removed a part of it when the men quit work? A. Yes.

Q80. And a part of it from the building before

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the men quit work in the shop? A. Yes. That is why I was surprised the men did not continue work.

Q81. And after the men quit work you went right on and finished up your work of removing it? A. Yes; I completed it. I either completed it that day or the next day or within two days at the outside.

Q82. How long after you had completed this work of removal was it that the men reported to work? A. Well, not over four or five days.

953 Q83. Did you promise these men that you would not buy any more material of this kind?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial. The witness's promise made to anyone cannot be material here against these defendants.

A. Yes; I did. I so stated, that I would not purchase any more.

Q84. Did you so state to Mr. Cook? A. I did.

Q85. Did you so state at the meeting at the headquarters? A. Not to my recollection.

954 Q86. It was before the meeting at the headquarters that you so stated to Mr. Cook, or after that meeting? A. Yes; before and after and during, I think.

Q87. What do you mean; you stated it to Mr. Cook at the meeting? A. I cannot declare that I did actually say that at that meeting. In order to give you some intimation of the state of mind I was in; I thought these people had not treated me right, because I had no disposition to go outside; it was a misunderstanding. I claimed a misunder-

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standing on their part; they claimed a misunderstanding on mine. I am telling you now in a general way the particulars, the purpose of the discussion, both before and after. I told them my intention was to conduct a union shop and also handle only union goods; I expected that this concern would be unionized and with that in mind I ordered material from them. They did not unionize the shop and I got into trouble, so all my conversations with them, wherever I met them or anything, were always along these lines.

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Mr. Mayer: I move to strike out the answer, on the ground that the answer is incompetent, irrelevant, immaterial and hearsay; tending to give the substance of the conversation or the number of conversations and to summarize what occurred at a number of different times at a number of different places with a number of different people wholly unidentified.

Q88. You told Mr. Cook and these other men that you had bought this stuff from Bristol because you believed Bristol was going to unionize? A. I did.

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Q89. You did so believe? A. I did.

Q90. Were there any differences between you as to the construction of the contract?

Mr. Maloney: I object as incompetent, irrelevant and immaterial, not calling for any facts.

A. No.

Q91. You agreed with them that you had violated the contract? A. No.

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Q92. They claimed you had violated the contract, did they not? A. They did.

Q93. You claimed you had not? A. Well, my answer to that would be that I claimed I did not, because I had assumed that this shop was to be unionized. Now it was not unionized and technicaally I did violate the agreement in so far as I understood it.

Q94. Then as you understood the agreement, it forbid you buying this material if this was an open shop concern?

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Mr. Mayer: I object on the ground that it calls for this witness's interpretation of the agreement which is in evidence; for a conclusion on his part; for the expression of a legal opinion; incompetent, irrelevant and immaterial and in no way binding on these defendants.

Mr. Maloney: Same objection, and I object to the use of the word "open shop" by complainants' counsel; it has not been referred to at all in this examination.

960 Q95. You understand what an open shop is, don't you? A. Very well. In spirit. There is nothing in the agreement about the purchasing of material whatever, but in spirit, I would say yes.

Q96. How much material had you contracted for from the Bristol Company at this time? A. You mean in value?

Q97. Yes. A. A rough estimate, I should say about $3,000, altogether.

Q98. Had it all been delivered? A. It had not.

Q99. Had it all been shipped? A. No.

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Q100. Some of it had not yet been shipped as far as you know? A. Had not been shipped.

Q101. What disposition was made of that contract—did you ultimately complete it? A. I did.

Q102. And it was shipped to you subsequently? A. You mean the contract with the Bristol people?

Q103. I mean that portion of the material which had not yet been shipped? A. Yes, it was all shipped.

Q104. And you subsequently received it? A. I did.

Q105. What did you do with it?

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Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. I put part of it in the same place of storage, some of it I put in another building on Broadway.

Q106. You subsequently entered into the erection of another building? A. No, I don't mean that.

Q107. You mean, you stored it in another building? A. Yes.

Q108. Now, as I understand it, at the time these men quit work, or about that time, some of this material was at a building which was being erected, some of it was in your factory and part of it had not yet been shipped by the factory. Is that correct? A. Nearly so. I would have to look at my records to find out if I had actually, before that, removed all that material from that building. The material I moved or shifted first I took from the building to which I had delivered it; that was the first. Now, whether I had actually removed it all, which I am inclined to think I did, or that there

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was still there a small quantity, that I took from the building first and then later I removed it from the factory.

Q109. You mean, you may have removed it? You mean that you may have removed it a short time before your men quit work? A. Yes.

Q110. And why did you remove it? A. Because the owner of the building told me that the carpenters would not work it.

Mr. Mayer: I move to strike out that answer; hearsay, incompetent, irrelevant and im-
965 material.

Mr. Maloney: Same objection.

Q112. Who was the owner of the building who told you this? A. The owner of the building was the Flemish Realty Company, and which one of the partners in the company told me, I could not very well say; it was one of them.

Q113. What is the name of the men? A. One is named Goldberg and one is named Kramer.

Q114. Do you know their first names? A. I ought to know, but I do not recall just now.

Q115. Was there any material on the cars on
966 which it had been shipped at this time? A. Yes.

Q116. And did you do with that as you did with the other material, put it in storage? A. Same thing.

Q117. Have you ever used any of this material in connection with this same building?

Mr. Mayer: I object; incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

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A. If you will pardon me before I answer this question. I do not know whether I can have counsel representing me here, but I am in a position that you are trying to get me to divulge the business secrets here which are likely to de me injury. I don't know how far I can go in this matter, whether it is proper for me to injure the business of the Empire Door & Trim Company, (I am not the only stockholder in it) or not. I ask you to consider this please, when you are asking some of your questions. If you will ask me the question again and insist on it, I will do the best I can to answer it.

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Mr. Maloney: I move to strike out the witness's statement as in no way having any reference to the issues, so far as the witness is concerned.

Mr. Mayer: If the witness considers he should consult with counsel, we have no objection. I do not know that Mr. Merritt has, he has allowed counsel before.

Mr. Merritt: If my consent were necessary, he would have it, but he is entitled to counsel if he wants it.

Mr. Mayer: I think we had better permit him to have counsel if he wants.

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Mr. Maloney: I move to strike out the statement made by the witness if it is to be considered by the complainant as evidence on his behalf or in the case. My understanding is, that the witness has asked counsel present as to whether he ought not to have the benefit of the advice of counsel for his own company in connection with his examination, and so far as counsel for the defendants are con-

970 cerned, they think if the witness deems that he should have the advice of counsel, that he should be allowed to have it and not be examined against his will by either party on matters to which he appears to object.

Mr. Merritt: No one here objects to his having counsel if the witness wants to adjourn the hearing until he can appear at another date.

The Witness: I prefer to get it over with now.

971 A. Practically no. There may have been two or three pieces there. We did not go through the job with a fine comb to get every scrap out of it, we did not think that was essential; practically, we did not.

Q118. Have you ever used any of this material in connection with other buildings? A. We have.

Q119. Have you any of it on hand now? A. We have.

Q120. How much of it?

Mr. Maloney: I object here as I cannot see how this can be competent, material or relevant
972 in this case so far as either party is concerned. We object to it as far as defendants are concerned, as incompetent, irrelevant and immaterial and having nothing to do with the issues in this case, whether he has or has not any of the material on hand.

A. I am unable to state exactly.

Q121. Half of it? A. No, not a quarter of it. I understand some of it was not finished. It came in in the form of rough work and we understood it

was delivered to be worked over in the shop, not coming under the head of finished work.

Q122. Then that which did come in as rough material on this same order or group of orders, was worked over in your own shop and subsequently utilized? A. A large part of it.

Q123. How much of it was in the rough, that you know of? A. I should say about one-third of it.

Q124. Well, that which was in the factories on or about the time the men quit work, was that in the rough? A. No, none of it. 974

Q125. What was it doing in the factory? A. Being worked into shape for use at the building.

Q126. Then all of the material is worked upon to some extent at your mill? A. Not all of it, but a good part of it, a large part of it.

Q127. Then there is some what you call in the rough and some which is worked upon to some extent in your mill and some which did not require any further work on it at all, is that true? A. That is right.

Q128. And what has become of the material which did not require any work on it at all? A. A large part of it is in this place where we put it 975 for storage.

Q129. Most of it you still have? A. No, not most of it, a large part of it, but not most of it.

Q130. The major part of it has been disposed of by you? A. Yes, I should say so.

Q131. And no work has been done on it by you? A. On this part that remains in storage?

Q132. That part was disposed of? A. Oh, we did some work on it.

Q133. I refer now to the material which you said

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did not require any work on it? A. Yes, we worked that in wherever we found an opening.

Q134. And you did work on it? A. Yes.

Q135. Did you have any arrangement with any of these officers that you have talked to concerning the use of any of this material?

Mr. Mayer: Objected to as calling for a conclusion on the part of this witness, incompetent, irrelevant and immaterial, in no way binding on these defendants.

Mr. Maloney: Same objection.

978

A. Yes, I understood that if we worked it over, we could use it, so we did, we worked over a large part of it.

Q136. Was this work simply required for that reason, or work which had to be done anyway? A. Well, we could not use it as it was. We changed its form, that is what we did.

Q137. You changed it because of these requirements? A. As I understood it, yes.

Q138. And that was the only reason you changed it? A. I won't say that, because in the form it was
979 I could not use it in another operation; it required a certain amount of change; or, in other words, I could use it by changing it, whereas if I did not change it, I could leave it in storage.

Q139. I want to know if you did work on it which you would not have done had it not been for the negotiations with these officers.

Mr. Maloney: Objected to as calling for conclusions concerning construction or changing of the form of material, in no way relevant to the issues here.

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A. It is hard to give an exact answer to that, because by changing it I could use it at once, whereas if I did not change it I might have to keep it in storage for some time before I would get a contract where I could use it as it is. Almost every job requires different formation of the pattern or size.

Q140. You stated that in the course of your negotiations with these officers they said you could use this material, which was otherwise complete in its form, if you worked it over, did you not?

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Mr. Maloney: I object now to the form of the question, as embodying an alleged statement as to what the witness said, and an alleged statement as to what these officers said and as not being direct questions to this witness calling for facts.

A. No, they did not. I would have to volunteer a statement as to that.

Q141. Very well, explain. A. Personally, I saw no reason why that could not be done to overcome any possible objection. One of the parties whom I charged with being the cause of all my trouble——

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Q142. Who was this? A. D. W. O'Neill.

Mr. Mayer: I object to that and move to strike out the answer; incompetent, irrelevant and immaterial, calling for a conclusion on the part of this witness not based on any of the facts in evidence.

Mr. Maloney: Same objection.

A. (Cont.) Of the Empire City-Gerard Company.

982 William Biggart for Complainant—Direct.

Mr. Maloney: I move to strike out that part of the answer as not relevant to the issues here; incompetent evidence against these defendants.

A. I asked him to see if he could arrange matters so I could do that.

Mr. Mayer—

Asked whom? A. D. W. O'Neill.

A. (Cont.) A few days later he told me he did
983 not think there would be any objection if I did it and I proceeded to do it, assuming that it was safe to do it.

Q143. Well, you had no difficulty after that time, did you?

Mr. Maloney: I object to that. What is the meaning of the word "difficulty"? I object to the question as calling for conclusions, no facts being asked for. It is impossible to cross-examine on such evidence.

A. I have not had any since.

984 Q144. Then your statement to Mr. O'Neill was with a view to making arrangements to have this material worked over so that it could be used?

Mr. Mayer: I object.

A. I thought he had some influence, because I felt that he was largely responsible, and so on.

Mr. Mayer: I move to strike out the answer as incompetent, irrelevant and immaterial and not in any way connected with the issues of

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this case, being a conclusion on the part of the witness, no facts being stated.

Q145. Wasn't it before the men returned to work that you agreed that you would not buy any more material from the Bristol people?

Mr. Maloney: I object, incompetent, irrelevant and immaterial.

A. Before the men went out, you mean?

Q146. Before they returned?

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Mr. Maloney: He answered that question in the past by saying he had such talks with them before, during and after.

A. I think I told them that before they went out, that is my recollection, because as I stated before, I was surprised that the men did not come to work.

Q147. Then you think that you agreed that you would not purchase anything more from the Bristol people before your men quit work? A. Yes, I am reasonably sure I did.

Q148. And you repeated this statement after the men quit work? A. I must have.

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Q149. When did this take place, Mr. Biggart? A. Just about a year ago, I think; in October, something like that.

Q150. How long had you been dealing with the Bristol concern?

Mr. Maloney: I object again, to the use of the word "dealing." There is no evidence here that he was dealing in the sense in which it is usually understood, with anyone. As I under-

988 stood the witness, they took contracts and performed contracts.

A. Approximately about two months. You see, if I placed an order with them, the material would not be shipped for a month after.

Q151. Is it your recollection that the period of time between the date of your first order and the date of this strike was only two months?

989 Mr. Maloney: I object to that question as again embodying an assumption by counsel which does not appear to be in evidence so far, that this was the first order, or that there was any first or second or third; no facts being called for on any occasion.

A. My answer would be, that it was, as near as I can say without an examination of the books.

Q152. You do not think you dealt with them in the spring of 1910 or late in the spring of 1910? A. It is possible we purchased some little thing from them, I don't know.

990 Q153. Mr. Worden testified that he thought the first shipment was along the first of April. I want to know whether that would refresh your recollection at all, or simply that you do not recall? A. He may have had his records to guide him.

Q154. Was the merchandise of the Bristol Company satisfactory as merchandise goes, except the reason that it was not union? A. Quite so, quite satisfactory.

Q155. And was your desire to work in harmony with the union your only reason for stopping dealing with them?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. It was. This was not the only concern that I did with, it was one of a number.

Q156. What other concerns did you do business with, Mr. Biggart?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial.

A. Well, at that particular time, I could not say 992
just who they were, but I could give you a list of a number of names with which I was doing business right along, I don't know whether I was at that particular time. Conway Veneer Door & Mantel Company; Manhattan Grille & Fretwork Company.

Q157. Were the character of materials that you purchased from the Bristol Company the same that you purchased of these other companies? A. Some part of it.

Q158. What kind of material was it you purchased from the Bristol Company? A. Some doors and panel work, mouldings.

Q159. Did you purchase panel work and mould- 993
ings from any other concerns besides the Bristol? A. Yes. The Manhattan Grille & Fretwork Company made panel work and mouldings for us.

Q160. Those are the only concerns you have in mind? Look at the list of complainants here and state whether you have dealt with any of them? A. We did make one purchase from the McMillen Company; it was through their agent, who represented another concern; there are none of these others that I purchased from.

Q161. You did not purchase their materials? A. I do not think I did. I won't be sure. I think maybe one lot or something of that kind.

Q162. Was it Mr. James C. Miner that you purchased that through? A. Yes.

Q163. Do you know approximately when that purchase was? A. Some time during the summer, the early part of the summer, 1910?

Q164. When you talked with these men, Cook and others, didn't they at any time admit that they had called the men out?

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Mr. Maloney: Objected to as calling for a conclusion as to what they said or did and characterizing what they said; incompetent, irrelevant and immaterial.

(No answer.)

Q165. You testified that Cook said the officers of the Council had called them out, did you not? A. No, I did not say that. I said that the officers of the Council would consider the question as to the men going back. Of course, you understand I assumed a whole lot and no doubt my assumption
996 was correct, as to what the cause of the trouble was, and it was not necessarily stated each time that we brought up the question.

Q166. Were your conversations or conferences with these men based on that assumption? A. On my part, yes.

Q167. Didn't you testify that Cook stated that the officers of the Council had ordered the men out? A. I don't think so.

Questions 51, 52, 53, 54 and 55 read to witness, as follows:

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"Q. Did you have any conversation with any of these men you have named, concerning the fact that your men had left the shop? A. I did. Q. With whom? A. Mr. Cook. Q. What did Mr. Cook state? A. I would have to first state the statement I made. All he did was answer my statements. Q. Well, give the conversation. A. I endeavored to discover why the men were not at work. Having intimated my willingness to harmonize with the unions, I was surprised that the men did not continue at work, but I was told that some of the officers of the district union had called the men out and it had to be taken up at a subsequent meeting. Q. You were told this by Mr. Cook? A. Mr. Cook. I was invited to call and see them, which I did."

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A. My first statement is correct, as far as I am able to answer it.

Mr. Maloney: I will ask counsel for complainant whether, when he asked this question, he was satisfied with the answer he got from the witness, or whether he wishes to get a contrary answer, so that I may know how to cross-examine him in regard to this.

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I want it stated on the record that complainants' counsel gave no audible answer to this question of defendants' counsel.

Cross-examination by Mr. Maloney—

XQ168. I understand from your previous testimony, Mr. Biggart, that your shop was a union shop before this Exhibit 7, which has been offered in evidence? A. It was.

1000 XQ169. And the agreement referred to merely embodied in substance in writing the conditions under which you were working prior to that time? A. It does.

XQ170. Some time in October, 1910, your men, carpenters working on wood material, went out of your employment on a strike? A. They did.

XQ171. You were informed about that time by the men that the reason was, they would not work on non-union material? A. I don't think the men made any statement.

1001 XQ172. I mean does that purport to represent the men, that they claimed that the material, that some material which you had, which you were supplying to someone else, was non-union material and that they would not work on non-union material? A. That is it, yes.

XQ173. You understood from that, then, that this material which you were supplying to this realty company was material which these men claimed was non-union material? A. Yes.

XQ174. Thereupon you went to the union or the officer of the union, or headquarters in 59th Street, and explained the matter to them? A. I did.

1002 XQ175. You took out such of this material as you could take out from the building and went on and completed your contract there? A. I did.

XQ176. With other material? A. With other material.

XQ177. Was this so-called non-union material, material of the Bristol Door & Lumber Company? A. Yes.

XQ178. Ordered by you under some contract with them? A. Not by contract, but under stipulated price.

XQ179. At some agreed price with them? A. Yes.

XQ180. Did you pay for the material? A. I did; we did.

XQ181. Your company, I mean? A. Yes, the company did.

XQ182. In your examination by complainants' counsel, the word "dealing" has been used in connection with your transactions with the Bristol Door & Lumber Company. Does that mean that you had transactions with them every day, or that from time to time you ordered goods from them? 1004
A. From time to time I ordered goods from them.

XQ183. The same as you might order goods from anyone else? A. The same.

XQ184. In such cases, did you make a contract with the parties or agree upon a price before you ordered? A. Not a total price, but an itemized price.

XQ185. Itemized prices? A. Yes. We would purchase as we wanted or felt disposed.

XQ186. Whenever you were buying material from them or anyone else, you made agreement with the parties for a price for the different sizes and kinds of material, in detail? A. We did. 1005

XQ187. You don't recall any other order with the Bristol Company than the one which was delivered or partially delivered in or about October, 1910? A. There was some miscellaneous material we required in our shop up there various material with which to make odd lots. Some certain part of that was ordered about or at the same time. When that material came in it not only covered that particular part required for a particular job, but also some what I might term stock material.

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XQ188. You were using that in your own shop? A. Yes, sir.

Mr. Merritt—

Q. You do not mean that this was the only order at all times? A. No.

XQ189. Was there any other order at any time that you can recall? A. Yes.

XQ190. About when was that? A. About or prior to that time, somewhere around that.

XQ191. Was it some time in or about April,
1007 1910? A. Times flies fast with me at this time of life, so whether it was in April, May or June or when I am not prepared to state without looking the matter up.

XQ192. That was an order on miscellaneous stock, too, was it not? A. In part. I am not prepared to state just what material it was. I could not say, for instance we ordered rough lumber, but just when that rough lumber was ordered I don't recall just now.

XQ193. I understood you to estimate that the total amount that you could recall in value of material purchased by you from the Bristol Door &
1008 Lumber Company was about $3,000? A. At that time.

XQ194. That is, for this October delivery? A. Yes, around that time.

XQ195. Were these orders for the so-called miscellaneous stock orders which aggregated any considerable amount? In value, I mean, as compared with this? A. I should say that all the other material outside of this lot, not for this particular job, but prior to this time, I should say it was just about an equal amount.

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XQ196. Was that principally rough lumber? A. No. It was lumber that had been run through the machines and which I had cut up.

XQ197. And worked over in your own shop? A. And worked over in our own shop.

XQ198. This previous material, then, had nothing to do with these so-called non-union complaints? A. Not that I heard of, not that I had any information on.

XQ199. When you took this material away, the men returned to work, did they, the men who had been in your employ? A. Yes, but not for several days after.

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XQ200. I meant, within a few days? A. Yes.

XQ201. Who are these two men by the name of Goldberg and Kramer? Carpenters that were in your employ? A. No, they were builders.

XQ202. They were in the employ of the Flemish Realty Company? A. They were practically the company, they were builders.

XQ203. Did you start in business in the early part of January, 1910? A. Yes, we did; we began work the first of January.

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XQ204. Is the company a corporation? A. It is.

XQ205. And you supposed that this trouble with you was caused by Mr. O'Neill that you have referred to? A. I did.

XQ206. Is that Mr. O'Neill connected with the Empire City-Gerard Company? A. He is the president.

XQ207. Had you ever been connected with that company before? A. No. Prior to that we were associated together in the Empire City Woodworking Company, which went into liquidation.

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XQ208. That is, you and Mr. O'Neill? A. Together with others.

XQ209. Was there any feeling on your part that this difficulty you had with the union men might have been caused through Mr. O'Neill because of the use of the name, Empire Door & Trim Company? A. Not the slightest.

XQ210. Had there been business differences between you and Mr. O'Neill before that made you think that he might have wanted to embarrass you in this business? A. Not before, but I assumed

1013 that it was——

Mr. Mayer: I object to this gentleman's assumption.

A. Iunderstood it was——

Mr. Mayer: I object to his understandings.

A. Spirit, and competition.

XQ211. Oh, competition. In the same business? A. In the same business.

XQ212. It was after you had reached this belief that you went to the union men to ascertain why the men had struck? A. No, it had no relation to

1014 my belief in the cause of it. I went to see if we could not restore harmony and proceed with our business.

XQ213. Did you think in some way that Mr. O'Neill was instrumental in bringing about the difficulty with the men? A. I did.

XQ214. And was it after you thought that, that you went to the headquarters of the union to find out what the real difficulty was, or was it at or about that time, I mean? A. It all took place within a couple of weeks.

XQ215. Then it was at or about that time that you went to the headquarters of the union? A. Yes.

XQ216. And they informed you, did they not, that the union men would not work on non-union material or what they claimed to be non-union material? A. Yes.

XQ217. This Exhibit 7, in Article II, has this provision: "The party of the second part agree that none of their members will erect or install non-union or prison made material, it being understood that window sash 1⅜" thick and under and exterior window blinds are not covered by this agreement except that this shall not be prison made." So that the men were willing to work upon certain classes of non-union material, sizes? A. Yes.

XQ218. Was your understanding, then, of these conditions under which your shop was working, that the men regarded as non-union material, material which was not made where union people were employed in the making of it? A. That is as I understand it.

XQ219. And in cases where the union men did not make any material of the size referred to, then they would work willingly upon that material, even though made under what they call non-union conditions. Do you follow me? A. I think I do. I suppose they did.

XQ220. That was your understanding, at any rate, with them? A. My understanding in that clause there, there are certain things that they were quite indifferent to as to where they were made.

XQ221. That is, as to sizes 1⅜" and under and

1018 exterior window blinds? A. Yes. I understand that they were quite indifferent as to who made them or where they were purchased?

Mr. Merritt: 1⅜" sash only?

Mr. Maloney: Yes, window sash and exterior window blinds.

XQ222. Was there any part of the material which you were supplying to the realty company referred to? A. Window sash 1⅜" thick and under?

1019 XQ223. Or exterior window blinds? A. No.

XQ224. And of course, none of the material was prison made? A. No.

Subscribed and sworn to before me)
this day of , 1911.)

Mr. Merritt: I want it distinctly understood in regard to this witness and all other witnesses which I produce, that if the counsel for the defendants or any of them suspend cross-examination, I will not assume the responsibility of the witness's return, although I have

1020 no objection in proper cases to cross-examination being conducted at a later meeting, provided the witness's attendance can be secured by the cross-examining counsel. I simply am unwilling to assume responsibility of the witness's return and in any way jeopardize my direct examination by such responsibility.

Mr. Beattie: We will expect the plaintiffs'

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counsel to produce his witnesses as often as necessary to the conclusion of their evidence.

Mr. Mayer: I am not prepared to proceed with the cross-examination of the present witness at this time, in view of his testimony with regard to one of the defendants that I represent. It is quite necessary and apparent that I should consult, before subjecting the witness to cross-examination.

The witness has stated that he will be here next Friday at 2 o'clock, to which time I ask an adjournment.

1022

Hearing adjourned to Friday, November 3, 1911, 2 P. M.

1023

1024 George Hagemeyer for Complainant—Direct.

PAINE LUMBER CO. vs. NEAL.

Hearing Friday, November 3, 1911 2 P. M.

PRESENT:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

CHARLES MAITLAND BEATTIE,
and
1025 WILLIAM P. MALONEY,
For defendants Neal and others.

C. J. HARDY,
By F. B. Whittaker,
For James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr Mayer,
For defendants Gethy and others.

WILLIAM BUTLER, Esq.,
By Mr. Mayer,
For defendants Murray & Hill Co., Jas. C. Forbes, Harlem River Lumber &
1026 Woodworking Co., Empire City-Gerard Co. and David W. O'Neill.

MR. BIGGART appeared for further examination, but defendants' counsel stated that they had no further cross-examination.

GEORGE HAGEMEYER, a witness called on behalf of complainant, being duly sworn, testified as follows:

George Hagemeyer for Complainant—Direct. 1027

Direct examination by Mr. Merritt—

Q1. What is your business? A. Lumber and trim commission.

Q2. Do you live in New York City? A. I do.

Q3. Will you give your age, please? A. Forty-four.

Q4. When you speak of the lumber and trim business on commission, just what do you mean? A. I mean that I sell for different concerns, to several in the trade here, not representing them wholly in the city, that is to say, I don't have the entire control of their sale of goods here, but I 1028 sell for them, not being under a salary.

Q5. Did you ever do business with Oliver L. Worden? A. I did.

Q6. You have done business with him at various times? A. Yes, for two or three years.

Q7. And you entered into contracts to purchase materials from him? A. I did.

Q8. And what were the nature of the materials? A. Trim and doors.

Q9. Did you make a contract with him for the purchase of certain materials for the P. J. Grool Construction Company? A. I did. 1029

Q10. And when was that? A. On August 16, 1910.

Q11. What were the character of the materials? A. It was the entire interior trim for the building on East 53d Street, between 3d and Lexington, on the north side of the street, about the center of the block, I don't remember the number. It included all the window and door trim and the doors and the base, wardrobe and dressers and everything necessary to complete the trim of the interior.

1030 George Hagemeyer for Complainant—Direct.

Q12. Could you give me approximately the value of that contract? A. $5.50.

Q13. What did you do with this contract?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial and not an issue in this case, in no way binding on any of the defendants.

A. I assigned this contract to one William Klein.

Q14. Is he the William Klein whose business is the Tremont Moulding Company? A. The same.

1031 Q15. You signed this contract I think you testified August 16, 1910? A. Yes.

Q16. When did the merchandise arrive, approximately? A. Part of it in the latter part of October; I can tell you the date exactly if I might look at my record of it.

Q17. I wish you would and refresh your recollection. A. Wardrobe and dressers arrived on the 28th of October over the Pennsylvania Road and the balance of the material, all the standing trim on November 4, 1910.

Q18. Did you notify the P. J. Groll Construction that the stuff had arrived? A. Notified him on

1032 November 4 that now all of the material was in New York and that I was about to make delivery.

Q19. Whom did you notify? A. P. J. Groll.

Q20. Did he say anything to you at that time——

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay evidence; in no way binding on these defendants.

Q21. Did he say anything to you at that time as to whether the material was union or non-union?

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Mr. Maloney: Same objection.
Mr. Mayer: Same objection.

A. He said that the delegates for the union had been around to see him and understood that the trim that was to be delivered for this job was non-union and that they had claimed that if I did make delivery that the carpenters who were then working upon the job would be withdrawn, they claiming that the material was called unfair.

Mr. Maloney: I move to strike out the answer as incompetent, irrelevant and immaterial, hearsay, and as containing conclusions and not the conversation.

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Q22. Do you recall anything else that was said at that interview? A. He begged of me to hold off with the delivery of the material for a few days, that he would try and straighten out the matter so that it would be acceptable.

Q23. Did you agree to do so? A. I did.

Q24. When did you next see him concerning this matter? A. Possibly two or three days later.

Q25. Was there anyone else present? A. Yes. I was introduced to Mr. William Simpson, I believe was the name, and L. Storey, I believe was the name, as being delegates of the union.

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Q26. Delegates of what union? A. Of the Carpenters' Union.

Mr. Maloney: I move to strike out the answer as incompetent, irrelevant and immaterial; also as containing conclusions and does not give the facts of the conversation.

Q27. Well, will you give us the conversation that

you recall which took place on this occasion? A. Mr. Storey told me that if I delivered this material upon the job that he would shut down the entire Groll job and Mr. Simpson coincided with him and told me practically the same thing. I told them at that time that I did not recognize them in the matter, that Mr. Groll, at least, the Groll Construction Company, had purchased this material of me and that I intended to make delivery of it. That is all I had with them at that time. I left them at that time.

1037 Q28. That is the conversation as far as you recollect? A. That is the gist of it.

Q29. Where did this conversation take place? A. In the building, the first floor of the building.

Q30. That is, the building which was being erected by the Groll Construction Company? A. The building which was being erected by the Groll Construction Company.

Q31. What was the condition of the building at that time? A. It was roofed in and most of the studding was set and they were putting lath on them, the rooms in which we stood were lathed.

Q32. What trades were working on the building?

1038

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. I saw the plumbers there, steam fitters, some masons and carpenters.

Q33. And plasterers? A. And some tile layers. No, there were no plasterers at work at that time.

Q34. Had any of this material which you had

contracted for been delivered at the building up to that time? (No answer.)

Q35. Well, when did you next see Mr. Groll in this connection? A. I saw him on that Friday of that week.

Q36. Who was with you then? A. I simply met Mr. Groll and his foreman, Mr. Johnson.

Q37. Was Mr. Klein with you then? A. No, Mr. Klein was not with me.

Q38. What conversation took place then in this connection?

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Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, in no way binding on these defendants; hearsay.

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. I told Mr. Groll that unless he notified me before the 19th of the month that I would make delivery of the goods at the building, that I had been holding them on store at the railroad company at an expense that was not warranted, and although I was willing to help him to further his own interests as far as the union was concerned, I could not hold out any longer.

1041

Mr. Maloney: I move to strike out the testimony as incompetent, irrelevant and immaterial, hearsay, in no way binding upon the defendants, being statements of a third party in no way connected with the litigation.

Q39. Did you make delivery on the 19th? A. I made delivery on the 19th between 1 o'clock in the afternoon and 9 o'clock that evening.

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Q40. What day of the week was that? A. It was a Saturday.

Q41. Why did you choose that time?

Mr. Meyer: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. Because Mr. Groll asked me to deliver it at a time when the union labor was not on the job.

Q32. And there was no one working there Saturday afternoon? A. Nobody working there Saturday afternoon.

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Q43. When did you next visit the building? A. On Monday mornnig; it would have been the 21st.

Q44. Were all the men still at work in the building at that time? A. Yes.

Q45. Did you see Mr. Groll? A. I met Mr. Groll and his superintendent Mr. Johnson.

Q46. Did you see any of these other men, Simpson or Storey, at that time? A. I met Mr. Storey and he went into the building. I think it might have been about ten o'clock in the morning and he came out very much upset and said that Mr. Groll had——

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Mr. Mayer: I object.

Mr. Beattie: I object.

A. (Cont.) "Hagemeyer has delivered the goods. I see," he said, " and I have taken your men off."

Mr. Mayer: I ask that that be stricken out.

Mr. Beattie: Same motion.

A. (Cont.) And within a few minutes the carpenters were leaving the building.

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Mr. Mayer: I move to strike out all of the last answer, as incompetent, irrelevant and immaterial; hearsay and not proper evidence.

Mr. Maloney: Same motion.

Q47. You saw the carpenters coming out? A. I did and I spoke with several of them.

Q48. Did any of them tell you why they were leaving the job?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

1046

A. Yes.

Q49. What reasons did they give?

Mr. Mayer: I object as incompetent, irrelevant and immaterial, clearly hearsay, in no way binding on these defendants.

Mr. Maloney: Same objection.

A. I asked several of them why they had left the job and they said the delegate had called them off because the trim that was delivered there was unfair. Later on in the day I met one of them near the building and he told me that they all would have liked to have stayed on, they did not see any reason why they could not work, but they had to obey the orders of the delegate.

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Mr. Beattie: I ask that that be stricken out as incompetent, irrelevant and immaterial; not responsive.

Mr. Maloney: Hearsay, and in no way binding on these defendants.

Mr. Mayer: Same objection.

Mr. Maloney: I also move to strike out all

1048 George Hagemeyer for Complainant—Direct.

these references to several of the carpenters, and met one of them, and so forth, as nobody is distinctly referred to or mentioned, so that it is impossible to cross-examine the witness, even if it be assumed that any such thing took place, nor is it possible for the parties to meet such testimony as that under any circumstances.

Q50. Do you recall the names of any of the men who told you that? A. I do not.

1049 Q51. You could not designate any of them? A. No, I would know them if I saw them, but I could not tell their names.

Q52. Did any of the other men employed on the building leave at that time when you were there?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

A. No. About the middle of the week, about Thursday of that week, that is the week after the 19th, all the trades had been withdrawn on that job. There was not anybody working on that job.

1050

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: A voluntary statement of the witness; hearsay.

Q53. I will ask you if you returned to the building this day when you saw the carpenters leaving? A. I was there every day for almost a month.

Q54. And do I understand that on one of those days you found that these various other trades were

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not working on the building? A. They were not working after Thursday of that week.

Mr. Maloney: I move to strike out as incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants; no one is specified, and it is impossible to cross-examine concerning such a transaction, and in the nature of the thing, impossible to meet such indefinite evidence.

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Q55. And you saw the men were not at work when you were there at the building? A. I know there was nobody there but the watchman and the superintendent and Mr. Groll.

Q56. Did you have any conversation with Mr. Groll concerning the situation?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, in no way binding on these defendants; clearly hearsay, not a proper method of proof.

Mr. Maloney: Same objection.

A. We did.

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Q57. What did he say? A. He said, "Hagemeyer, you have put me in an awful hole here by furnishing trim that is not union." He said, "It has been the cause of all of the other trades leaving my job and it puts me at a standstill. I can't complete my building."

Mr. Maloney: I ask now to note on the record whether it is the intention of counsel to prove by this witness that he, the witness, caused the trouble with Groll, or if he intends

later to contradict this testimony, and I ask for an answer on the record.

Complainants' counsel makes no answer.

Q58. Did Mr. Groll say anything to any of these delegates, Simpson or Storey, in your presence, as to what he would do in the matter?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. No, not in my presence.

1055 Q59. Did he say anything in your presence to these men as to his future dealings with you?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. Yes, he said that he could not deal any more with me because I could not give him union material.

Q60. Was that said in the presence of—— A. In the presence of both Storey and Simpson.

Q61. That is all, unless you can tell me this: Do you know whether or not this merchandise which

1056 you had ordered from Worden came from the Bristol Door & Lumber Company? A. Part of it did, yes; the lion's share of it came from there.

Cross-examination by Mr. Beattie—

XQ62. What did you have to do with that contract after you assigned it to William Klein? A. I had entire charge of the delivery of the material and the looking after the delivery, so that what I had originally purchased or agreed to deliver under that contract, was delivered. I had agreed that

with Mr. Klein when I assigned the contract.

XQ63. Have you got your agreement with Groll with you? A. I have my contract, yes; I have my assignment of contract.

XQ64. Just let me see your contract a moment? (Witness produces contract.)

Witness: The assignment is on the blue sheet and the notification of the assignment is also there. I keep those things altogether.

XQ65. You say in this assignment: "I hereby assign all interest," etc., "in this contract for trim and material to William Klein, the Tremont Moulding Mills." Do you mean that you assigned all interest except seeing that the goods were delivered? A. I assigned all interest inasmuch as the payment of the material was concerned, yes. That is what was understood by that assignment. In other words, the payment should be made to Mr. Klein, as he was standing good for the payment of the goods to the shipper. 1058

Cross-examination by Mr. Maloney—

XQ66. You mean, the payments should be made by Groll to Klein? A. Directly, yes. 1059

By Mr. Beattie—

XQ67. Do you notice in this assignment the words: "I agree to furnish all the materials as enumerated in the said contract and to carry out the contract in all its provisions"? A. Yes.

XQ68. You thought you had some reservation there in doing some work in connection with it? A. There was an understanding between Mr. Klein

1060 and myself when I assigned the contract that he was to have nothing whatever to do as to the looking after of the delivery of the material on the building or seeing that everything was delivered that should have been delivered to the building, that that was part of my end of the agreement, that I was to do that.

XQ69. But it did not state that in the agreement? A. Not in the agreement.

XQ70. And Groll consented to that assignment? A. Yes. And he understood also that I was to see
1061 that he got everything that I had originally contracted for.

XQ71. Did you consider that there was any obligation on your part in the assignment of the contract and the acceptance by Groll, to attend to anything in connection with it? Do you so understand? A. Yes.

XQ72. Well, after you made the delivery on November 19th there was no occasion for your going there every day for a month after that, was there? A. There certainly was, because the carpenters had questions to ask me about the different parts of the trim which they did not understand, how it was to
1062 be put together.

XQ73. Your contract does not call for any supervision on your part as to putting it together? A. It is a customary thing where a man takes a contract, to do that.

Mr. Beattie: I ask that that "customary" be stricken out.

XQ74. Now answer the question, please. Your contract does not call for any supervision on your part as to putting it together? A. No.

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XQ75. How do you know that these men that you speak of as delegates of the carpenters—Simpson and Storey—were delegates of the carpenters? Who told you that? A. Mr. Groll introduced them to me as delegates from the union.

XQ76. Is that all you know about them being delegates of the union? A. No, I had met them time and again before, and after that, and know them to represent the union.

XQ77. What union? A. The Carpenters' Union.

XQ78. Do you know any of the other delegates there of other trades? A. No.

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XQ79. Do you know whether there was any other grievance of other trades on the job? A. No.

XQ80. Did either of these men tell you whether the material that you were delivering was complained against in connection with the part of it which was made by the Bristol Door Company? A. No.

XQ81. Who made the rest of it, that Bristol did not make? A. The Montgomery Door & Sash Co. made the wardrobe and dressers and Mr. Klein made some odds and ends that were necessary to complete the job.

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XQ82. Was Mr. Klein conducting a union mill at that time? A. No, he was employing union help, but he was not conducting a union mill.

XQ83. Was the Montgomery Sash & Door Co. a union mill at that time? A. It was not.

XQ84. Did these goods have on them where they were made? A. No.

XQ85. There was no way for a carpenter or for anyone else to see by the doors or trim or any other part of that contract in what mill it was made? A. No.

1066 George Hagemeyer for Complainant—Cross.

XQ86. You said you were willing to help Mr. Groll out agaisnt the union. Any prejudice against the union? A. None whatever.

XQ87. Had trouble with them before? A. No.

XQ88. Had trouble with them since? A. Yes.

XQ89. That is, since this Groll incident you have had trouble with the Carpenters' Union? A. Yes.

XQ90. And you feel now rather sore on them? A. I can't say that I do. We have all got to make a livelihood.

XQ91. Well, did you think they treated you
1067 properly in this last trouble that you had with them? A. In their view of it, yes.

XQ92. How about your view of it? A. I did not think they were—the most natural thing.

XQ93. They did not treat you right? A. No. If they would not use my material, they were certainly not treating me fair.

XQ94. How about this Groll contract. Was that that all a union job except for this trim of yours and doors? A. So I understand.

XQ95. And all the men on the job were union? A. So I understand.

XQ96. And didn't you understand from Mr.
1068 Groll when he gave you the contract that you were to only furnish union material? A. There was not anything said about furnishing union material.

XQ97. That was not any part of the understanding outside of the contract you speak of? A. No, sir.

XQ98. But you knew before you took the contract that this was a union job? A. I knew nothing of the kind.

XQ99. When did you find that out? A. When I wanted to tender delivery of my trim.

XQ100. Were you trying to hoodwink these men by getting these goods in on Saturday afternoon after they left, thinking they would work on non-union material thinking it was union? A. I simply delivered my goods under my contract at the request of Mr. Groll during these hours.

XQ101. Wasn't that your purpose? A. That may have been his purpose. I had nothing to do with that. It was immaterial to me whether I delivered them at one time or another.

XQ102. You were trying to help him out? A. I was, certainly. 1070

XQ103. Wasn't that your purpose in helping him out in that way? A. I can't say that it was.

XQ104. You did not want to mislead these men into the idea that this stuff was union? A. No, because they knew that I was delivering the goods.

XQ105. Then delivery on the day they were working there would have had the same effect, as far as you were concerned? A. Except that if I had delivered them on a day that they were working; that if I had started to make delivery, the carpenters would have walked out off the job, and perhaps all the other trades.

XQ106. How many carpenters were on the job? 1071
A. Possibly twenty.

XQ107. How many other trades were on the job? A. Steam fitters and tile layers and plumbers.

XQ108. What became of the goods finally? A. They were used.

XQ109. Put on the job? A. Put on the job.

XQ110. Put up by these very carpenters? A. By some of them.

XQ111. Well, by union carpenters? A. Yes, by

1072 some of the union carpenters, and some non-union carpenters.

XQ112. Well, were you there seeing it put up? A. I was there and saw that some of the same men that left the job the job when Storey called them out were back on the job and working behind closed doors. I knew that they went in there prior to working hours, and that they stayed during the noon hour and left the job before the quitting time. They never came out through the front door of the building.

1073 XQ113. And they put up the work? Well, how about the other trades, they did not stay out very long, did they? A. No.

XQ114. How long did it take them to get back? A. After the trim was set on they went back and finished the job, but while the trim was being put up they did not work.

XQ115. How long did that take? A. About two and a half weeks. I will make exception to that: The marble men did work in the main halls during the time that this trim was being set.

XQ116. You are sure they were marble men, sure there were no carpenters there? A. They were set-
1074 ting the marble.

XQ117. You did not see any other work done? A. No other work done.

XQ118. Do you know whether the building was ready for any other work at that time? A. Yes. The steamfitting and plumbing should have been put in while my trim was being set. It is customary to do it at that time.

XQ119. You had no interest in looking into these other matters in the building? A. Excepting that you asked me, and I noticed them.

XQ120. Because I asked you now, and you noticed them? A. I had taken notice of it. I knew that those things were happening at that time, or were not.

XQ121. Was all that trim put up by these carpenters finally? A. Yes.

XQ122. All of it? A. Yes.

XQ123. And how long after the delivery on November 19th was it all put up? A. About three weeks, with the exception of the front and vestibule doors, and they were delivered possibly five weeks later.

XQ124. Where did they come from? A. Mr. Klein.

XQ125. Non-union doors, too? A. If you call them such. They were made by union labor.

XQ126. I don't call them, I am asking you? A. I considered that they were union doors.

XQ127. But the other work that you had ordered for Mr. Klein was non-union? A. Anything I delivered for Mr. Klein I considered union.

XQ128. I thought you said a moment ago that Mr. Klein was running a non-union concern? A. He did not sign any agreement with the union, but he would not employ anything but union help. He is here to say so for himself.

XQ129. And the objection was of Simpson and Storey, in part, to the part of your contract which was furnished by a union concern, that is, Klein & Co.? A. They objected to the delivery of these goods, that is true, and it was under a contract with Mr. Klein and Mr. Groll, and Mr. Klein was running a mill in which he was employing nothing but union help or labor, but he did not buy the material from outside from a union shop.

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1078 George Hagemeyer for Complainant—Cross.

XQ130. What proportion of your contract was furnished by Mr. Klein's own factory? A. Possibly $600. or $700.

XQ131 And they would not put that up, either? A. Well, it was all put up.

XQ132. Well, these union carpenters you say declined to put up that stuff you delivered there on November 19? A. At that time they did, yes.

XQ133. And that included the $600. worth of material of Klein? A. No, that was a considerably later delivery. Mr. Klein's was what I call odds
1079 and ends, material that was not delivered by me from these other concerns from out of town that were necessary to complete the job. Mr. Klein made it at his mill and delivered it.

Cross-examination by Mr. Maloney—

XQ134. I understood you to say that in these differences that you had with the carpenters since this incident, that because they would not use the material which you supplied, you did not think they treated you fair, is that correct? A. That is right.

1080 XQ135. Then when the carpenters refuse to use material which you want them to use, your characterization of what they do is just the reverse of what their characterization of the material is? A. I would assume it so, yes.

XQ136. When these men had talks with you, this Storey and Simpson, they told you that the carpenters would not work upon what they call non-union material? A. What they call unfair material.

XQ137. Did they use the word unfair? A. They did.

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XQ138. Which one used that expression? A. Both Simpson and Storey.

XQ139. Did you ask them what they meant? A. I did.

XQ140. What did they say? A. They said it was material that was not made in a union shop.

XQ141. And then they explained to you that the carpenters, being union carpenters, would not work upon what they call non-union material? A. That is it.

XQ142. At that time, you told Mr. Groll, when you talked with him, that you had nothing whatever to do with the union men, but expected him to carry out his agreement with you? A. Yes. 1082

XQ143. He in fact did carry out his agreement, and paid you? A. Yes.

XQ144. Whatever the difference was between the carpenters and Groll, it was subsequently settled and the carpenters, both union and non-union, put up the material complained of? A. No, I don't see it that way.

XQ145. Then I misunderstood you. Did you testify that some time later this same material which you had delivered was, in fact, put into the building? A. Yes. 1083

XQ146. And didn't I understand you to say that when it was put in you saw some of the same union men who had refused to work, again working on this material? A. Yes.

XQ147. Were there also men working on this material later that you knew were non-union men? A. They were with them.

XQ148. So that afterwards, whatever the differences were, they were disposed of and union and

non-union men put up the same material in the same building? A. Yes.

XQ149. At a subsequent time? A. Yes.

XQ150. You made no inquiries as to the reasons why, or anything? You had no interest in it? You had no interest in that matter at all? You did not pay these men? You had nothing to do with them? A. I did not pay them. I had nothing to do with them.

XQ151. Had Groll paid you for the material, before that? A. I am not yet paid.

1085 XQ152. You were not paid? A. Not yet.

XQ153. By Klein or by Groll? A. By either.

XQ154. You looked for your pay, then, from Klein, did you, after the assignment of the contract? A. Yes.

XQ155. And Klein was to look for his payment for the material to Groll? A. To Groll.

XQ156. Did Groll pay Klein for the material? A. Partly, yes.

XQ157. Do you know whether he paid him in full? A. He has not.

XQ158. Was any objection made to the material by Groll afterwards, of its quality or any other
1086 thing? A. There was no fault to find with the material at all.

XQ159. Why did Groll refuse or omit to pay Klein? A. That I don't know. It is a matter of time, I suppose.

XQ160. Have you talked with Groll about it? A. Several times.

XQ161. Has the time for the payment of the contract expired? A. Oh yes, months ago.

XQ162. That part of this material which was supplied to the building which came from the Bris-

tol Company was purchased from Mr. Worden under this assigned contract of yours to Klein and Groll guaranteed the payment, did he not? A. To Klein, yes.

XQ163. Guaranteed the payment to Worden? A. To Klein.

XQ164. What dou you mean by the guarantee to Klein? A. He guaranteed to pay Klein for the material under this contract after I made the assignment.

XQ165. I am referring to his agreement. He agreed, in fact, to pay Klein for the material, be- 1088
cause he was the assignee of your contract? A. Yes.

XQ166. But isn't it a fact that this contract with Klein for this material was, as far as Worden was concerned—the Bristol material I am referring to —the payment of that, so far as Klein was concerned, was guaranteeed by Groll with Worden and the Bristol Company, wasn't it? A. Not that I know of.

XQ167. Didn't Mr. Worden tell you anything about that? A. No.

XQ168. Worden was the representative of the Bristol people, was he not? A. Yes, he was. 1089

XQ169. You don't claim that you represent them in any way? A. No.

XQ170. You made your contract for this material with Worden? A. With Worden.

XQ171. Did not Worden make some arrangement before the contract was made, with regard to the amount of credit that should be extended to Klein? A. No, it was in regard to my credit. My credit was not strong enough, so I assigned it to Klein, so that the credit would be good under which we could

1090 receive this material, and that if after that Mr. Klein made any arrangement to have it as it was, it appears to me—I don't know that—but my Bill of Lading here from the railroad company shows that the goods were delivered directly from the Bristol people to the Groll Construction Company. If Mr. Klein made such an arrangement with Worden, I don't know.

XQ172. Mr. Klein was doing business under the name of the Tremont Moulding Mills? A. Tremont Moulding Mills.

1091 XQ173. Mr. Worden has testified (XQ314) "How much of a credit did you think the Tremont Moulding Mills could be given by your firm, safely? A. I figured on a mill of this kind about $500. or $600." Did you know about that? A. No, I knew nothing about that.

XQ174. And Mr. Worden testified in substance that the material from the Bristol Company supplied by him to the Tremont Moulding Mills for Mr. Klein was guaranteed or endorsed by the Groll Construction Company. Did you know anything about that? A. No.

1092 XQ175. The Bristol Company is a company which manufactures material of this kind somewhere in the West—Wisconsin? A. Bristol, Tennessee.

XQ176. Have you ever represented them as their agent or salesman upon commission? A. No.

XQ177. Then as I understand it, this material was sold by them to Worden or delivered by them through Worden, Worden receiving a commission from them, and by Worden to you, and you receive a commission on the sale of it to the Tremont Mills, and the Tremont Mills sell it to Groll; is that right?

A. No. The Bristol Door & Sash Co. sold the goods to the Tremont Moulding Company under this contract, and Mr. Klein and I divided any profit that was to be derived from that contract the same as if I had made the contract my self.

XQ178. Then this contract and assignment does not on its face purport to show the real situation, does it? A. No, it would not.

XQ179. On its face it appears to be a contract by you with the Bristol Company? A. No, with Groll.

XQ180. I mean, as far as your contract is con- 1094
cerned? A. Mine is made with Groll Construction Company by George Hagenmeyer.

XQ181. I mean you contract for the purchase of the material? A. I had none.

XQ182. You purchased that after you made the contract with Groll? A. After I made the contract with Groll.

XQ183. Were you getting a commission on that from the sellers of the material? A. No. Worden derived his commission there.

XQ184. Did you receive no commission? A. I received no commission. My only interest in the contract was the supplying and the completing of 1095
the contract for the delivery of the trim and a division of the profit actually shown after everything was paid by Mr. Klein.

XQ185. So you and Klein in reality were partners in the transaction? A. In that transaction.

XQ186. So when you testified that you were a salesman on commission, does that statement mean transactions of this kind, or that ordinarily, you— A. It does.

XQ187. Transactions of this kind? A. Yes.

XQ188. And you do not ordinarily purchase and sell on a commission basis? A. Not altogether, no.

XQ189. Have you ever done so? A. Oh yes.

XQ190. When? A. I am doing it all the time.

XQ191. Was this contract different from your ordinary business? A. It was.

XQ192. Was there any special reason for that? A. None, other than that I had hoped to be able to carry them through under my own name, that was all, building up the name of Hagenmeyer in the trim line.

1097 XQ193. What was the date in the contract that the material was to be delivered. Is there any specific date? A. I believe it states in about six weeks from the date, or August 16.

XQ194. Was any complaint made about the time the material was delivered, by Groll? A. No. The job was not ready at that time for it.

XQ195. He never made any complaint about the delay in your delivery of the material? A. No.

XQ196. Did Groll know that you and Klein were partners? A. Yes.

XQ197. In reality, then, you did have an interest in seeing whether the union men worked on this

1098 material, did you not? A. I did in so much as this particular contract was concerned.

XQ198. That is the only contract you had with Groll, wasn't it? A. Yes.

XQ199. Why did you tell Groll, then, that you had no interest in this dispute with the union men, if the contract was with him? A. That I had no interest?

XQ200. Yes? A. Just the reverse.

XQ201. You did have an interest in it? A. I

certainly was interested in having the material put up in the building.

XQ202. You testified that you told Groll that you had no interest in this matter, that you had this contract for the delivery of the material in respect to its delivery? A. That is true.

XQ203. Why did you tell him that when, as a matter of fact, you were a partner with Klein? A. Well, I don't quite grasp what you want to know.

XQ204. Well, I know, but that is what I want to find out, what reason you had for telling Groll that? 1100
A. Telling Groll what?

XQ205. That you had no interest in this matter? A. No, I did not have, nor did Klein have any dispute; the dispute was between Groll and the union.

XQ206. It affected Klein's profits, the difference between the union and Groll? A. I don't think so.

XQ207. Then this disturbance or difficulty with the men at that time had no effect upon the profits of either Groll or Klein? A. That I don't know; not that I could see upon Klein's but I don't know upon Groll's. As far as Klein was concerned, it could not make any difference. If we were paid for 1101
what we made the contract for, then we knew what our profit was.

XQ208. And of course, it could have made no difference to the Bristol people? A. Not a bit.

XQ209. Well, did the men on the job understand that Klein's material was what they called non-union material? Klein's mill? A. They did not call it a union mill, but they knew that the men working there were under union wages and hours and so did the delegate.

XQ210. Klein manufactures material of this character? A. Yes.

XQ211. And that material which he manufactured was made under these union conditions? A. Yes.

XQ212. It was only after the union men found that Klein was supplying material made outside of this factory under what they called non-union conditions that the carpenters made complaint? A. No, Mr. Klein had not made any delivery of anything else before that time, nor did he make any-
1103 thing up to that time of the delivery of these goods for this job.

XQ213. After they heard that he was going to supply material made outside of his factory under what they called non-union conditions, they made this complaint and said they would not work on it? A. After we made that delivery, yes.

XQ214. Well, really before you made that delivery, wasn't there some talk of that kind with Storey and Simpson? A. Yes.

XQ215. But that was about the non-union material, as they described it, made outside of Klein's factory? A. Yes, made outside of town.

1104 XQ216. Outside of Klein's factory? A. Outside of Klein's factory.

XQ217. His factories are here in the city of New York? A. Here in Tremont. The same day that I was unloading this material and making the delivery——

XQ218. I don't care anything about that. Were you personally acquainted with these men who worked on the job, the mechanics? A. I knew a number of them but not by name. I had met them on several other jobs.

XQ219. How did you know some of them were union men and that others were not? A. Well, they carried a card, most of them.

XQ220. Did you look at their cards? A. I often did.

XQ221. In connection with this contract? A. Yes.

XQ222. How did you come to do that? A. Because I asked them, I thought it was rather strange that they were working upon the job after they had been withdrawn from it and they showed me their cards. 1106

XQ223. They did not show you their cards before that time, did they? A. No.

XQ224. Well, how did you know that they were union men before that time? A. Because I have seen them on other work.

XQ225. And that was the only reason you had to believe that they were union? A. They had their cards.

XQ226. Did you see them? A. Yes.

XQ227. Was it your habit when you had business on these building jobs to look at the cards of the men who were working on the job? A. At times, yes. 1107

XQ228. What was that for? A. Nothing, but that I had asked them if they were union men and they said they were. I often knew them to be working on my material and still they were union men and my material certainly was not union.

XQ229. Perhaps, then, if they were not union men, they would have worked on your material? A. So I understood.

XQ230. And you asked to see their cards? A. I

did, to convince myself that they were really working on that material.

XQ231. Was the material that you referred to upon which they worked when you saw their cards, 1⅜" sash and under, or was it over that size, sash? A. Some of it was larger, some of it was under.

XQ232. These two men that you say were delegates, Simpson and Storey, told you that they would withdraw the men. You mean the carpenters? A. Yes, the carpenters.

XQ233. Did not these men that you talked with
1109 afterwards inform you that under the rules of their organization they could not work on non-union material? A. They said if it was found out they would be fined.

XQ234. But they told you they could not work under the rules of their organization on non-union material? A. That is what they said.

XQ235. That was when you asked them why they left? A. Yes.

Cross-examination by Mr. Mayer—

XQ236. Had you before this occasion had any trouble in regard to the use of your trim, trim that
1110 you were selling, this non-union trim? A. Not before, no.

XQ237. Were you expecting some trouble on this particular job? A. No, I had not any reason to.

XQ238. Why, if you were not expecting trouble and had no reason to expect it, and had no prior trouble, did you insist in a great many instances in looking at the cards of the men to see if they were union men or not? A. Well, that is pretty hard for me to state. I can't say just why I asked them, except that I wanted to know.

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XQ239. Why did that interest you, if you had no trouble? A. Because I had been told that they were union, and I had my doubts.

XQ240. You had your doubts as to whether union men would work on non-union trim before you took this contract? A. Yes, because they had often told me they would not.

XQ241. And still they did? A. They did where they did not know it was non-union.

XQ242. You know that in every instance, as far as your information is concerned, where they knew that the trim was non-union, these union men refused to work on it? A. Yes.

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XQ243. And is this the first time you have had any dealings with Groll? A. Yes.

XQ244. And you knew, didn't you, when you took the contract from Groll, that the union men did not want to set nun-union made material? A. I did.

XQ245. And still you said nothing to Groll about it, did you? A. I did not.

XQ246. You said nothing to Groll about that? A. I did not know at the time when I took the contract that Mr. Groll would have union help or non-union help to put up his trim. I did not know that until after I had tendered my delivery.

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XQ247. You knew in every instance where union men had worked on the jobs that they did not want to set the trim made in non-union factories, didn't you?

Mr. Merritt: I object unless it appears that the witness did actually know. I think he has said so already, and I think this testimony is clearly improper unless the witness can qualify

1111 as really knowing what was the situation under other circumstances in other places, and I move that the testimony as to what he knew at other times be striken out unless it be shown that the witness really does know of his own knowledge and is not only basing his information upon remarks and hearsay.

A. That is what I understood.

XQ248. It is within your own experience? A. Yes.

1112 XQ249. And still you never thought to inquire of Groll when you made the contract with him as to whether or not he was going to do the job in a union or non-union way? A. It certainly was not up to Hagenmeyer to ask Groll anything. If he was willing to buy my material, it was not up to me to tell him where it came from.

XQ250. And that is just exactly what you told Groll when he called you down for getting him into all this trouble? A. I don't grasp that.

XQ251. And that is just what you told Groll when he called you down for getting him into all this trouble? A. I told Groll that I did not know

1113 anything at all about whether his job would be union or non-union, nor did I care. He purchased the goods from me. I came into the market to sell them and that is all I know about it. I don't see how much plainer I can put it than that.

XQ252. And Storey and Simpson told you, did they not, on this occasion when you met them, that the union carpenters did not want to set material that was made in a non-union factory? A. They did not tell me that. They told me, if I delivered my material, as they understood it was unfair trim,

that they would take the carpenters off the job. Remember, the carpenters at that time were not working upon my material, they were putting up stud and the like of that, and when I delivered the material Storey took the men off.

XQ253. When they talked about the unfair trim, did you ask them what that meant? A. I knew what it meant from what they inferred, from their being union, it would be unfair because it was not made in a union shop.

XQ254. You knew that the minute the union carpenters found out that they were working on 1115
non-union trim, that they would refuse to work? A. Yes, if the delegate called them off.

XQ255. The minute the representatives of the union—— A. The union carpenters would work any trim that came under them at all on the job at any time, only too glad to do it, if the delegate did not call them off.

Mr. Beattie: I ask that that be stricken out as not responsive; incompetent.

A. He is asking me questions and I don't know how to answer them. 1116

Mr. Mayer: I ask that the answer be stricken out.

XQ256. If you will direct your answer to my questions——

By Mr. Maloney—

XQ257. You mean by that, that the working men have no means of knowing whether they work on union or non-union material and must get the in-

1120 formation from somebody who makes an investigation? A. I suppose so.

By Mr. Mayer—

XQ258. And so, when representatitves of the union find out that the material the men are supposed to work on is non-union, the men will not work on it? A. They call them out. I believe that they would work.

XQ259. If they would work on it, they would be working against the rules of their own union? A.
1121 I don't know what their rules are, I am not a union man, but I only can surmise what they are.

By Mr. Maloney—

XQ260. You have a suspicion, in other words? A. Yes, a grave suspicion.

By Mr. Mayer—

XQ261. You understand, of course, that it is difficult for a man on the job to know where the material comes from. You understand that? A.
1122 The laborer?

XQ262. Yes? A. Yes. I don't know that it would be any of his affair.

XQ263. If the credited representative of the union—you call him a delegate—or the business agent, after investigation, finds that the material is non-union made, it is your understandig that the men on the job will not work on it? A. If he calls them off.

XQ264. If he calls their attention to it? A. If he calls them off.

George Hagemeyer for Complainant—Cross. 1123

By Mr. Beattie—

XQ265. How much money is due you and Klein under this Groll contract now? A. Well, I could not say offhand. I am not keeping the books. Mr. Klein has the books.

XQ266. How much is it, approximately? A. It must be a few hundred dollars.

XQ267. $1,500.? A. No, I think it is less than $500.

X268. When was the last payment made? A. The last payment was made within the time of payment, but extension of paper has been given from time to time, it draws it out to now. That is what I have reference to when I say it is not paid. 1124

XQ269. Has any payment been made since November 19, 1910? A. Well, all payments were made after November 29, 1910. Ten days after delivery of my goods under my contract I was to receive my payment.

XQ270. You did not get it, did you? A. I received my payments from time to time under the contract.

XQ271. Did you deliver everything by when? A. I delivered everything that came from out of town on the 19th, if that is what you mean, and what Mr. Klein delivered after that was delivered weeks after that. 1125

XQ272. Well, were you paid up to date on November 19, by Groll? A. Nothing due.

XQ273. Ten days after, all your out of town material, payment thereon, was due? A. I think you will find the payment on the last sheet of the contract.

XQ274. Did you get the $800. on November 29? A. If that is what the contract called for.

XQ275. You got that? A. Yes.

XQ276. When did you get the $900.? A. Within a few days after.

XQ277. And when did you get the $1,150. due on it? A. Not over a month after the delivery of the goods.

XQ278. And the final $400.? That was paid possibly two months after the delivery of the goods.

XQ279. This contract seems to call for $4,250. instead of—— A. No, $5,150.

XQ280. It was reduced to $4,750. on the back
1127 of the contract here? A. Yes.

XQ281. Then the contract is not for $5,150.? A. It was for $5,150.

XQ282. Well, but it was reduced by agreement here to $4,750., wasn't it? A. Yes, we allowed him the $400.

XQ283. Well, were any of these payments made on time, that is, under the changed and modified contract there was $1,800. to be paid ten days after the delivery of the goods, $900.—— A. He made that first payment, less that difference, as you will see by the balance of the reading of the contract there, that is that substitution in the contract there.
1128 He paid everything prior to those payments within ten days after the delivery of the first goods.

XQ284. There is $500. due yet to you? A. It is less than $500., just how much I can't say.

XQ285. Is it $400.? A. It may be.

XQ286. When was it due? A. Well, it has been for several months and it has been extended from time to time.

XQ287. Well, under your contract, when was it due? A. Within ninety days after the delivery of the material.

XQ288. And were all the other payments made on time? A. Yes, practically on time, that is, what we would call on time, it may be a few days longer.

XQ289. Well, were you not going up there during the month after the delivery of these goods to collect your money? A. No, I went every day after that to see about my material being set up on the job.

XQ290. Weren't you trying to get your money, too? A. There were times when I went there for my money.

XQ291. Weren't you trying to get your money? 1130
A. Yes.

XQ292. You asked him for money every day of that thirty? A. Oh no, I did not.

XQ293. Nearly every day? A. If I had asked him for money and he was short, and said he would pay something next week, I would wait.

XQ294. You would go up the next day to see if the carpenters were on the job? A. Not for that so much as to see that my material was all there that was wantted.

XQ295. But it was all there on November 19th, wasn't it? A. I supposed it was.

XQ296. Didn't you know it was delivered, if 1131
you were up there every day? A. I did not check the goods off to know if the stuff I bought from the mill was in the car.

XQ297. You went up every day of thirty days after November 19th? A. Yes, and including Sundays. The carpenter would meet me on the job every morning, like every job I have anything to do with, and this job, I am telling you my custom.

XQ298. I don't want it? A. I went upon this job every day.

XQ299. To see if the goods were delivered? A. To see if there was anything lacking that should have been delivered.

XQ300. How many of these days did you go for money and how many to see if anything was lacking of the thirty days after delivery? A. Oh, I could not tell you that. I suppose I may have gone there a dozen times for money.

XQ301. And how many times were you turned down? A. Possibly half of that number of times.

XQ302. Was this money paid to you in small
1133 amounts, or was it paid according to the figures here on this modified contract? A. The first payment was made in pretty good time.

XQ303. You got it all at once? A. The whole of the first payment, and I got the second payment that you see there also, and I got the third payment. The last payment was the only payment I think on which there was anything running.

XQ304. Wasn't the third payment paid out in small quantities? (No answer.)

XQ305. Do you know whether these carpenters or other mechanics were running up there to get their to get their money every day or two as you
1134 were after yours? A. I don't know that.

XQ306. You don't know whether they had the same complaint about getting their money that you had? A. I haven't any complaint about getting the money.

XQ307. You did not get it when it was due? A. I was not complaining about not receiving my money.

XQ308. Do you know whether they were having difficulties in collecting, and calling for money that they did not get, any of these mechanics? A.

There was a boss carpenter there—Fleischer—who had some trouble with the men there, but I don't know that Groll had any trouble with him.

XQ309. Then you knew these carpenters were having trouble about not getting their money on the job due from somebody? A. Due from somebody.

XQ310. And that was at the time they quit work? A. No, that was after they quit work.

XQ311. Then they did not quit work around the time they were asking for money? A. No.

XQ312. But the money due them was accumulating during this time, I suppose? A. Well, that I can't say. 1136

XQ313. Did the other trades besides the carpenters have trouble in getting their money on the job? A. I don't know anything about the other trades, except that I noticed them working on the job or not working.

XQ314. Are you a member of the American Anti-Boycott Association? A. I am not.

XQ315. How did you come to tell them you would be a witness in this case? A. Mr. Worden had asked me if I would be a witness here, and I told him that I did not have any objection to it, but I certainly would not come voluntarily, and I was subpoenaed to come. 1137

XQ316. Then you came here because Mr. Worden asked you to come? A. No, because I was subpoenaed to come.

XQ317. Did Mr. Worden know what you testified to in any way before he asked you to come here? A. No.

XQ318. Well, who first knew that you had this evidence to give in this case?

Mr. Merritt: I object to that question as clearly incompetent.

XQ319. From you? A. I could not tell you that.

XQ320. Don't you know how you got here? A. I suppose it was through Mr. Worden. That is to say, I suppose that Mr. Worden had spoken of my knowing about this Groll job and the material being delivered being non-union. That is what I supposed was the reason why they got me to come down here to give evidence. I am telling you the
1139 truth as near as I see it.

XQ321. Did you tell Mr. Worden before you came here about your evidence? A. No, sir.

XQ322. Did not speak to him at all about the case? A. Did not say anything to him about it at all.

By Mr. Maloney—

XQ323. Can you tell by looking at this contract what size sash was to be furnished on this job? A. I think that would show it.

XQ324. Whereabouts is that? Does this door
1140 openings mean sash? A. No, that means door openings.

XQ325. There is 1⅜ mentioned there. What does that refer to? A. That is referring to the doors "door openings to be furnished with doors 1⅜" thick."

XQ326. What is sash? A. "Exterior sash are to be furnished where shown on plans of sizes shown on same, openings are to be supplied with jambs and casings to match." It does not give the thickness of the sash, but the sash would be made in that

1141

contract the thickness or size as shown by the window frames, which I did not furnish.

XQ327. As a matter of fact, do you know? Can you recall? A. Yes. It was 1⅜" above the cellar and 1¾ in the cellar.

XQ328. Does this contract purport to call for the painting of the trim by the contractor? A. No, sir.

XQ329. Simply the material? A. The material, that is all.

Re-direct examination by Mr. Merritt—

1142

RDQ330. You stated that the men on the job told you they would be fined if they were caught working the non-union trim? A. That is what they told me.

RDQ331. And you have testified that your understanding was based on your experience that the men would not work on the non-union trim unless the delegates directed them not to do so? A. Yes.

RDQ332. Have you any experience or knowledge which would make you willing to testify that the carpenters would quit work because of the use of non-union trim if no delegate ordered them to quit work.

1143

Mr. Beattie: I object as incompetent, irrelevant and immaterial; no foundation laid.

A. I have not any knowledge. I have already testified that if they were not called out by the delegate, that they would not refuse themselves to work upon it.

Mr. Maloney: I move to strike that out; there is no testimony as to that. I ask to have

1144

it stricken out as incompetent, irrelevant and immaterial and as a suspicion or surmise of his as to what they might do.

RDQ333. Have you any experience or knowledge which would make you willing to testify that the carpenters would not knowingly work on non-union trim if the delegates did not order them to quit work?

Mr. Maloney: I object as hypothetical and calling for expert testimony concerning a matter which could not be possibly within the knowledge of the witness, calling for conclusions about matters which would be conjectural as to what they might do.

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Mr. Merritt: This is in line with the cross-examination of the defendants where they asked him based on his experience and knowledge as to whether or not the carpenters would quit work on the non-union trim of their own volition, or whether it was on the direction of the delegates.

Mr. Maloney: There is no such examination on the part of defendants' counsel.

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Mr. Merritt: The record will speak for itself.

A. No.

RDQ334. Have you had any experience of this kind on any other jobs besides this one of the Groll Construction Company?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, collateral issue.

A. Yes, since then.

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RDQ334. Had you had any prior to that date? A. No.

RDQ335. Then you had no personal knowledge, up to the date of this trouble on the Groll Construction Company job, as to why or whether the union carpenters would refuse to handle non-union trim? A. Only by hearsay.

RDQ336. Well now, you stated that you had had experience since then. Have you had any personal knowledge concerning the attitude of union carpenters since the date of this trouble with the Groll Construction Company? A. Yes.

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RDQ337. Was that in connection with non-union trim furnished by you? A. It was.

RDQ338. When and where was that?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. It was on the corner of Fox and Tiffany Street, a job erected by the Knox Construction Company.

RDQ339. Is that in Manhattan? A. In the Bronx.

RDQ340. And what happend there?

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Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, not shown to affect the plaintiff's trim.

A. I delivered my material and it was set, with the exception of a few thousand feet of base, when the delegate withdrew the men, found it was unfair trim, as he termed it.

Mr. Beattie: I ask that the answer be

stricken, incompetent, irrelevant and immaterial; no foundation laid.

RDQ341. Do you know the name of the delegate who came there? A. Donovan.

RDQ342. Did you have any talk with any of the carpenters as to the reasons why they quit? A. No; I did not see them after that. The job was finished with non-union labor.

RDQ343. Where did you purchase this material from. A. I purchased it from Worden, from Mont-
1151 gomery Door & Sash Co. They took the entire contract.

RDQ344. Was there anyone else on that building besides carpenters? A. Oh, yes.

RDQ345. Did any of the other trades quit?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. They all went out.

Mr. Maloney: I move to strike it out; collateral issue, incoherent; we cannot cross-examine on such evidence or know what evidence we may be required to meet.

1152

RDQ346. Where you there when the men quit work? A. I was not.

RDQ347. Were you there after the men quit work? A. I was.

RDQ348. You saw they had quit work? A. Yes.

RDQ349. Were you there after the other trades had quit work? A. Yes.

RDQ350. When did this take place? A. I would not be certain as to the date, but I think it was in May, 1911.

George Hagemeyer for Complainant—Re-direct. 1153

Mr. Mayer: I move to strike out all of the testimony of this witness in regard to Fox & Tiffany Streets, on the ground that the occurrence is after the commencement of this action; incompetent, irrelevant and immaterial; hearsay.

RDQ351. With whom was the contract made?

Mr. Mayer: I object on the same ground.

A. With Knox.

RDQ352. With whom did you have your dealings? A. With Montgomery, through Worden. 1154

RDQ353. What person connected with the Knox Construction Company did you deal with? A. There were two in the concern; one was Slesinger and the other a Fenischel; I don't know their first names.

Mr. Beattie: Defendants' counsel wish to give notice that if the complainants' counsel desires to have it inferred against the defendants that they have caused the withdrawal of other trades from the fact that it appears that 1155 other trades were not at times working on other jobs, that they will offer evidence in the future in the case of various jobs from any quarter of the city where other trades were not at times seen working on the job in course of construction, and if it is not upon that ground, objection is made that it is an effort to obtain evidence of names of supposed witnesses and therefore comes within abuse of privilege in examination of a witness.

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RDQ354. Who had charge of this work for the Knox Construction Company on the building? A. Fenischel.

RDQ355. Well, now, does this cover your personal experience and knowledge in connection with the attitude of the carpenters? A. Yes.

RDQ356. Then everything else that may have happened or concerning which you may have testified as to the general attitude of the carpenters, is simply based upon rumor or hearsay? A. No, in this instance upon what I know to be so.

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RDQ357. But these are the only instances where you have personal knowledge of the attitude of the carpenters toward non-union trim? A. Yes.

RDQ358. The only instances where it has come under your immediate sight? A. Yes.

RDQ359. Did you ever talk with this man Donovan in connection with this Knox Construction Company job? A. No.

RDQ360. You had your conversation with—— A. Fenischel or Slesinger.

RDQ361. You stated that you had never received the full amount of this contract for the work for the Groll Construction Company. I will ask you

1158

whether any allowance was made to the Groll Construction Company by your consent on account of these various strikes concerning which you have testified?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. Yes, we allowed them the part that this contract shows.

RDQ362. That is an amount of several hundred dollars? A. Yes.

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RDQ363. And you allowed it for that reason? A. Allowed it for that reason.

Re-cross-examination by Mr. Beattie—

RXQ364. What did you have to do with strikes? Your contract called for certain figures or certain material? A. Yes.

RXQ365. You did not need to give up any money because of any strikes? A. Not necessarily, no.

RXQ366. You furnished them the material? A. Yes.

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RXQ367. And you mean you voluntarily gave them $400 or was it $500? A. $400.

RXQ368. You gave them that because there were strikes? A. I did not give it because there were strikes, no.

RXQ369. What did you give it to them for? A. I allowed him that because he claimed that it would cost him that to get the matter straightened out with the union. Those are the facts. I had to give up $400 believing that it was to be used for the purpose of arranging with the delegates to have this trim used.

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Mr. Beattie: I ask that that answer be stricken out as not responsive.

RXQ370. Is Groll holding the rest of the money because also of these strikes? A. No, I understand it is because he has not got it.

RXQ371. How long have you had that understanding? A. What understanding?

RXQ372. That he was without money—Groll? A. When his note was presented at his bank at maturity and is not met, that is the best evidence that he has not got the money.

1162 George Hagemeyer for Complainant—Re-cross.

RXQ373. How many of his notes have been protested of yours, given to you, I mean? A. I don't believe any of them were protested, but we granted extensions. I don't know. Mr. Klein tells me now that three or four were. Mr. Klein is handling that end of it and I would not know unless he told me.

RXQ374. Who told you? A. Unless Mr. Klein told me. I knew it to be a fact that we extended several of them and I know that one of them went to protest to my knowledge.

1163 Mr. Maloney: Mr. Klein, he says, has informed him.

RXQ375. Is this Mr. Klein here? A. Yes, Mr. Klein is here.

Mr. Maloney: Note that his partner, Mr. Klein, says three or four were protested.

RXQ376. Did you learn of any other notes of this man Groll being protested? A. Not that I know of. I had not heard of any.

RXQ377. Well, was Mr. Groll satisfied with your
1164 allowance of $400 because of this union trouble, or did he ask you for more money? A. He said it might cost a thousand.

RXQ378. Did he want you to credit him with a thousand? A. He certainly had the nerve to ask it, yes.

RXQ379. Well, he had a nerve to ask you even for the $400. You knew you were not in any way accountable for that? A. No. I believe that if George Hagemeyer had the doing of it alone, that he would never have got one cent of it. I certainly

would not stand for it on a contract of mine directly.

RXQ380. You are George Hagemeyer? A. Yes. I would not be bulldozed into anything of the kind.

RXQ381. It was Klein who was weakening? A. Klein has the contract and it was made with his consent. I was asked about this difference and that is the way it came about it, that change was afterwards made in the contract.

By Mr. Maloney—

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RXQ382. He bulldozed Klein into taking off something like $400 upon the alleged claim that it was going to cost them $1,000, which he first asked for, to adjust these differences with the union? A. That was my understanding. I did not go into the conversation.

By Mr. Beattie—

RXQ383. You did not figure out how this loss arose, did you? Was it two weeks' work of twenty men? A. I don't know, I could not tell you that.

RXQ384. You took Groll's word that he was losing money to the extent of $400 or $1,000? A. Mr. Klein took his word for that, yes.

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RXQ385. But you did not take his word? A. No, sir; I would not take anybody's word for anything of that kind.

RXQ386. You are out of pocket, are you not, on it yourself? A. I am not out of pocket.

RXQ387. You mean that Klein suffered this loss of $400? A. He was suffering the loss.

RXQ388. What sort of contract did you have with this Knox Construction Company? What did

1168 it call for, and how much was it? A. It called for the trim on three four-story buildings.

RXQ389. How much? A. It amounted to in round numbers about $6,000. I don't know the exact amount, it was about $6,000.

RXQ390. Trim, doors and sash? A. Trim, doors and sash.

RXQ391. And where did you get the trim from? A. Montgomery Door & Sash Company.

RXQ392. And the doors? A. And the doors.

RXQ393. And the sash? A. The sash also.

1169 RXQ394. Where is that concern? A. Montgomery, Pennsylvania.

RXQ395. Well, you said there was a strike on their jobs, didn't you? A. Yes, a strike of the carpenters.

RXQ396. How do you know about that? Were you on the job? A. No. I before testified that when all but about 4,000 feet of base was set, that the carpenters had been taken off. When I got there the following day—the following day, after I had been down, I met the builders and they told me that Mr. Donovan had been there and taken the men off the job because they found that my trim was

1170 unfair trim.

RXQ397. You don't know of your own knowledge who Donovan is or why he had taken them off? A. I know who Donovan is. I simply speak of what I heard as to the——

Mr. Mayer—

RXQ398. Your testimony is hearsay in that regard? A. Yes.

By Mr. Beattie—

RXQ399. You don't know anything of your own knowledge about that complaint? A. No.

RXQ400. There might have been other complaints on that building? A. I don't know. There might have been, I don't know.

RXQ401. Are you an agent for the Montgomery Door & Sash Company? A. No, sir.

RXQ402. Did you assign that contract? A. To the Montgomery Door & Sash Company.

RXQ403. You assigned it to them? A. Yes, as- 1172
signed it.

RXQ404. You had nothing to do with the delivery of that, did you? A. I certainly did, I had everything to do with it.

RXQ405. When were the goods delivered under the contract? A. They were delivered within the time as agreed under the contract. I don't remember just when that was. If I had it before me I could tell you when that was. I have not the contract here.

RXQ406. About when were they delivered, approximately? A. During April and May, it may have gone into June. 1173

RXQ407. Did you go up there every day after the delivery on the job? A. After my first delivery I was there practically every day.

RXQ408. Every day in April, May and June? A. Every day while I was making any delivery on that job.

RXQ409. Sundays, too? A. Yes, sir.

RXQ410. Well, then, you knew about the troubles of the men there, didn't you? A. I did

1174 George Hagemeyer for Complainant—Re-cross.

not know about the trouble until after they had stopped. I so testified.

RXQ411. Did you look at the cards of the men on that job? A. No.

RXQ412. The cards of the carpenters? A. No.

RXQ413. You did not know whether they were union or not? A. I understood they were union.

RXQ414. Do you know? How did you know that? A. I did not know it myself.

RXQ415. How did you understand it? A. Through the owners of the building, the builders,
1175 they told me they were all union carpenters.

RXQ416. About what time was it that the carpenters quit work on that job? A. My best recollection of it is, the latter part of May, 1911.

RXQ417. And that was one of the months you were there every day, wasn't it? A. Yes.

RXQ418. You were there a month and a half, every day before that, and a month and a half after that every day? A. I was there the better part of two and a half months. I am pretty certain of that, every day.

RXQ419. And this strike occurred about the middle of the time you were there? A. At the end.

1176 RXQ420. I understood you to say your deliveries were April, May and June? A. I say they may have run into June. I cannot say definitely without my own data before me.

RXQ421. But as to that job, all you know is what you were told by Mr. Fenischel as to what happened? A. Yes.

By Mr. Maloney—

RXQ422. How long have you been in the trim

1177

business, Mr. Hagemeyer? A. About seven years; in the lumber business since '84; dealer in trim and lumber.

RXQ423. Such information as you have on this subject, as far as the unions are concerned, has been acquired by you during that period of time from your experience with the various jobs? A. Only from my experience.

RXQ424. And you only purport to give your own experience? A. My own experience and only in New York City; that is the only place I have had any trouble.

1178

Adjourned to Friday, November 10, 1911, 2 P. M.

1179

1180 William Klein for Complainant—Direct.

PAINE vs. NEAL.

Friday, November 10, 1911, 2 P. M.

APPEARANCES:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

CHARLES MAITLAND BEATTIE,
and
WILLIAM P. MALONEY,
1181 For defendants Neal and others.

C. J. HARDY,
By F. B. Whittaker,
For James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr Mayer,
For defendants Gethy and others.

WILLIAM BUTLER, Esq.,
By Mr. Mayer,
For defendants Murray & Hill Co., Jas. C. Forbes, Harlem River Lumber & Woodworking Co., Empire City-Gerard
1182 Co. and David W. O'Neill.

WILLIAM KLEIN, a witness called on behalf of complainant, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. William Klein.
Q2. What is your age? A. Coming forty.
Q3. Do you live in New York City? A. Yes, sir
Q4. What is your business? A. Mill business.

 1183

Q5. Does that mean manufacture of doors, sash, blinds, trim, etc.? A. Yes, sir.

Q6. Under what name do you do business? A. Tremont Moulding Company.

Q7. How long have you been doing business under that trade name? A. Four years.

Q8. Where is your place of business? A. 4,242 Park Avenue, Bronx.

Q9. You have a factory there; a mill? A. Yes, sir.

Q10. Has your mill always been located there? A. Yes, sir; it has been located there for the last 1184
twenty years.

Q11. It is not a corporation, is it? A. No, sir.

Q12. Just a trade name? A. Just a trade name.

Q13. Do you operate what is known as a union mill? A. Yes, sir.

Q14. How long have you operated a union mill? A. In fact, I have been a union mill right along since I have been there, four years, until last fall. Last fall they came in and took the union men away, and I left the mill standing idle; they took the men away. On the 27th of March I joined.

Q15. You refer to the fall of 1910? A. Yes, sir.

Q16. While you have been doing business under 1185
this name, have you purchased for sale some of the merchandise of the same general character as that which you manufacture? A. Yes, sir.

Q17. And have you ever purchased from the Bristol Door & Lumber Company? A. Yes, sir.

Q18. Through Mr. Oliver Worden? A. Yes, sir.

Q19. Well, during what period of time did you purchase from this company, generally speaking? A. I have been purchasing from Worden & Hausbeck for the last three years.

1186

Q20. Is that the name of the firm with which Mr. Oliver Worden was connected? A. Yes, sir.

Q21. Are you still dealing with them? A. I have not done anything with them since last fall.

Q22. Can you state how much of the material which you purchased from that partnership was material of the Bristol Door & Lumber Company? A. Yes. One carload. One carload went to the P. J. Groll Construction Company. That is about all I bought off of these people, the Bristol Sash & Door Co.

1187

Q23. Do you know the name of the manufacturer of all the material which you purchased from Worden & Hausbeck? A. I purchased some from the Bristol Sash & Door, Montgomery.

Q24. Are you able to testify that this one carload is the only purchase that came from the Bristol people. A. That is all.

Q25. And you are able to testify that there were not any others that came from the Bristol people? A. That is all.

Q26. Might there be some that you did not know the origin of? A. No; only that one car came from the Bristol.

1188

Q27. Then all the material which you purchased from Worden & Hausbeck—— A. They came from different concerns, like the Montgomery Sash & Door Company.

Q28. You know in every instance the concerns they came from? A. Yes, sir.

Q29. You testify that you purchased a carload from the Bristol Door & Lumber Company for the P. J. Groll Construction Company? A. Yes, sir.

Q30. And this construction company was a builder? A. A builder.

Q31. And for what building were they purchased? A. A building on 53d Street between Third & Lexington Avenues.

Q32. That is the same building concerning which Mr. Hagemeyer gave testimony here the other day? A. Yes, sir.

Q33. Did you have any conversation with anyone who represented themselves to be delegates of the Carpenters' Union concerning these parties? A. Well, not on the job. I have not been much around the job at all. I have been down there seldom on the job. There was a delegate came to see 1190
me before the job was given out really, about who was going to furnish it. I told him Hagemeyer had the contract. I furnished the window frames on the outside; Hagemeyer could not carry it so I took hold and carried it for him.

Q34. Who was this man who came to you? A. William Simpson.

Q35. And this was before Hagemeyer had made the contract with the Bristol people, so far as you know? A. No; the contract was already made.

Q36. You knew it had been made at the time, since he spoke to you? A. Yes, sir.

Q37. Where was it that you saw Simpson? A. 1191
He came to my mill one day.

Q38. And have you given all the conversation that you recall? A. Yes, sir.

Q39. He simply asked you—— A. He asked me several things which I knew nothing about, because Hagemeyer had the dealings of the job.

Q40. He asked you to whom the contract was to be let? A. Yes; he asked me; I told him at that time George Hagemeyer had it. And at that time I had furnished the window frames.

1192

Q41. And there was nothing said at that time as to whether the materials were to be union or non-union? A. No; not to my knowledge; I don't remember him saying anything.

Q42. Not to your recollection? A. Not to my recollection.

Mr. Maloney: What time are you referring to—at this conversation?

Mr. Merritt: Yes.

1193

Q43. Now did you see this man Simpson after that time concerning this matter. A. I have seen him, but he never spoke to me.

Q44. Where? A. I saw him one day at Groll's job. I saw him there, but did not speak to him.

Q45. You are referring to the building where the material was to be used? A. Yes; but I had no conversation with him at all.

Q46. Did you have any conversation with any other man who represented himself to come from the union? A. No; only the time they were getting the lumber from the cars. I was down there Friday when the car came in. Mr. Hagemeyer was

1194

unloading and the next day, at 12 o'clock, the 19th of November, they came up and pulled my men out—a man named John Donovan, a delegate.

Q47. Did you talk with Donovan? A. I asked him why he was doing that and he said it was unfair trim on account of Groll's job.

Q48. And your men all left? A. Yes; all the union men left me—nine of them, I think.

Q49. Was this on a Saturday? A. Yes; Saturday, 12 o'clock; so I shut the mill down for a week, for eight days.

1195

Q50. Was there any of this material in your shop at that time? A. No.

Q51. None of your men were working on any of this non-union material? A. No.

Q52. Was your shop being operated as a non-union shop at that time? A. I thought it was, because I employed mostly all union men, and they never bothered me, never said anything to me, or anything else. I was working eight hours and paying union wages.

Q53. Have you entered into any written agreement with the Carpenters' Union? A. Yes; I have, on the 27th of March, 1911.

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Q54. Have you that agreement with you? (Witness produces agreement.) I notice this agreement you hand me purports to be signed by John T. Donovan and William Simpson? A. Yes, sir.

Q55. Are those the same men about which you have testified? A. Well, that is the man that took me out on the 19th day of November.

Q56. You mean, took your men out? A. Yes; took my men out, and he organized the shop.

Q57. And this man Simpson is the Mr. Simpson with whom you had the conversation before you took the contract over from Hagemeyer? A. Yes, sir.

1197

Q58. Did you see these men sign this agreement? A. Yes, sir.

Q59. You signed it? A. Yes, sir.

Mr. Merritt: I offer this agreement in evidence.

Marked "Complainants' Exhibit 8," November 10, 1911.

Mr. Beattie: I object as incompetent, irrelevant and immaterial.

Mr. Maloney: I move to strike out all conversations between Simpson and Donovan and all these transactions referred to by the witness as incompetent, irrelevant and immaterial; hearsay, and in no way binding on these defendants.

Q60. How long were your men out? A. Eight days.

1199 Q61. And did the same men return at the close of that eight days? A. Well, yes; there were two of them came back to work again.

Q62. The balance of the eight did not return? A. No; they did not return.

Q63. Did they return shortly after that? A. There are some working now for me. After I joined, then they came back to work for me.

Q64. After you joined—you mean after March, 1911? A. Yes.

Q65. Did any but these two return to work before the time you signed this agreement in March, 1911? A. Yes; they worked for me around the holi-

1200 days; Christmas.

Q66. Did you have any conversations with any of these men, Simpson or Donovan, or any other men purporting to come from the union during any of this period when your men were out? A. Well, only I wanted to find out what this was and they told me it was unfair trim on Groll's job and they took the men out.

Q67. You stated that was your conversation with Donovan. Have you had any other conversation? A. No; only when I signed up with them I had an-

other job going on they told me I could not go on with that job unless I joined the union; so I joined with the union and finished the work I had. 1201

Q68. Was that a job that concerned the Bristol people? A. No; I made all the material in my own factory for that job.

Q69. And who made this statement to you at the time that you signed this agreement, or just prior thereto? A. Donovan.

Q70. He stated you could not go on with the other work that you were then doing unless you signed this agreement? A. I was doing a house; at least, I had a contract for the house of a lawyer, Mathieson, and they took the men off and then said I could not go on with the work unless I joined the union, or got my mill organized, and I went into it and finished the work. 1202

Q71. Between the date that you had this conversation with Donovan when your men were called out and the date when you had the conversation with him just prior to executing this agreement, Exhibit 8, you had no conversation with any of these men? A. No; when I started this job here I organized the shop; that was in March, I think, they took the men off, and that delayed us for two or three weeks, and then I wanted to go on to complete the job, because I had my money sticking into it and I wanted to get my money. The owner would not pay me unless I made a union job out of it. 1203

Q72. Is it your understanding of this agreement that you were forbidden by its terms to purchase material from non-union or open shop concerns?

Mr. Maloney: Objected to as incompetent,

1204 William Klein for Complainant—Cross.

irrelevant and immaterial; not the best evidence; calling for his conclusion and interpretation of the contract, which can in no way be binding on these defendants.

Mr. Mayer: Same objection.

A. Yes. That I could not buy material from open or non-union shops, mill work material. I had to buy of their union mills.

Q73. Did they state that to you? A. They stated that to me.

1205 Q74. What stated that to you? A. Donovan.

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial, and I move to strike it out as hearsay, in no way binding on these defendants.

Q75. Have you lived up to the agreement on that point since the date of its execution? A. Yes, sir.

Q76. Then you have purchased no material from any non-union or open shop mill? A. No.

Q77. Since the date of the execution of this agreement? A. That is right.

1206 *Cross-examination by Mr. Beattie—*

XQ78. When did you furnish that carload from the Bristol Door & Lumber Company? A. November, 1910.

XQ79. Is that the first carload you have ever bought from these people? A. The first car I ever bought off the Bristol Sash & Door Co.

XQ80. Did you have any desire to buy any more from them. A. If I could have got it in; if I could have got it worked; but as long as I could not buy it out there——

1207

XQ81. You could have bought from November until you signed this agreement on March 27, 1911? A. No; I had no work.

XQ82. You had no occasion? A. No; I did not have any work. I did not have any work; when I got into that mix-up I had to shut down on the work.

XQ83. Did you try to buy any lumber besides that carload from the Bristol? A. No, sir.

XQ84. When did you pay for that carload? A. Ten days after it was delivered, I believe.

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XQ85. Are you sure about that? A. Pretty sure; yes.

XQ86. If I remember rightly, Mr. Worden said he would not give you any credit beyond $500. Do you know that? A. I don't know anything about that. I think my credit is good enough. I have bought many thousand dollars off him.

XQ87. Only one car, I thought you said? A. That was from those people, but I had bought from different parties before that.

By Mr. Mayer—

1209

XQ88. Different parties that he represented? A. Yes, sir.

By Mr. Beattie—

XQ89. Did he state that the Bristol had your credit down for $500? Do you know anything about that? A. I don't know anything about that.

XQ90. You would have exceeded your credit on that one carload, wouldn't you? It was more than that? A. Yes; it was; it was $1,700, I think.

XQ91. When these nine men went out, how many non-union men also went out? A. Five.

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XQ92. Did Donovan call out the non-union men, too? A. He ordered them all to stop work on Saturday, 12 o'clock.

XQ93. And the non-union men all quit, too? A. Yes; because when the trouble was——

XQ94. I don't want to know because. Did you hear him tell them to go out? A. Yes, sir.

XQ95. Did the non-union men get out of the mill quicker than the union men, or the union men quicker than the non-union? A. All stopped at the same time, twelve Saturday.

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XQ96. On Donovan's order? A. Yes, sir.

XQ97. And you knew Donovan had nothing to do with these five non-union men? A. Yes, sir.

XQ98. Had you been paying your men up properly? A. Yes, sir.

XQ99. No question of wages? A. No, sir.

XQ100. Were you paying the non-union—— A. The same wages I paid the union.

XQ101. What did you pay the union men? A. Some of them $16.50; $18; $19; $22 a week.

XQ102. Some of them? A. Yes, sir.

XQ103. That is the way the figures averaged? A. Yes, sir.

1212

XQ104. All of which wages were more than the union wage? A. Yes, sir. And working four hour less a week.

XQ105. You say you paid them the union rate. You know the union rate was $15.50, wasn't it? A. No, sir.

XQ106. In the Bronx? A. No, sir. The union rate was $16.50.

XQ107. The union rate was at that time $16.50? A. Yes, sir.

XQ108. You were paying most of them more

1213

than that? A. Yes, sir; and working four hours less a week.

XQ109. How do you know this man Donovan represented the Carpenters? A. Well, he came around and showed his badge; he was the delegate of the Carpenters, of the mill workers, shop hands.

XQ110. What did he say when he called out the men? A. I had been in the office; it was just five minutes of twelve when he came around; I was getting the pay rolls made up; he wanted to see the envelopes. He said, "It is a lockout. I have locked out your men. It is a lockout." I said, "All

1214

right." And those were all the words I spoke to him.

XQ111. You were satisfied, then? A. I knew he was a delegate and represented the Carpenters and Joiners.

XQ112. You were satisfied with him doing it? You said it was all right? A. He had taken the men out. I could not say anything else; "It's all right," that's all I said.

XQ113. Wasn't your work pretty slack at that time? A. I wanted the men; I had a lot of work, but not at that time.

XQ114. I thought you said your work had run

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slack up to that time. A. After that time. I was working pretty steady up until January.

XQ115. How many of them came back in a week? A. Two.

XQ116. Only two of them came back? A. Yes, sir.

XQ117. Did you have other men there, union men? A. Union and non-union.

XQ118. Did Donovan come around to see you again? A. He came around, but he did not say

1216 anything. I did not ask the men whether they were union or non-union. I told them the wages I was paying and they went in to work and they worked on until March, and then there came this trouble on this other job in March, and they shut me down again, so then I organized with the union to go on and finish this other job.

XQ119. This other job had nothing whatever to do with the Bristol products? A. Nothing at all.

XQ120. It was altogether a question of the unionizing of the mill? A. Yes, sir.

1217 XQ121. You don't know of any way in which the conduct of these people that you speak of, Donovan, Simpson and so on, has injured the business of the Bristol people, do you? A. I know nothing about it.

XQ122. The carload had already been bought, and they were paid for the carload? A. Yes, sir.

XQ123. And that is all the business you have had with them? A. With the Bristol Sash & Door Company?

XQ124. Yes. A. That is all.

XQ125. You have had a lot of trouble collecting your money from the P. J. Groll Construction

1218 Company for that carload, haven't you? A. No, sir.

XQ126. Didn't you say you got some bad checks? A. All paid for yesterday.

XQ127. Did you tell him that you were going to testify here about this matter? A. No, sir.

XQ128. That he had better make good on this check? A. No, sir; they were notes; they were due. One was due the other day, $164, and he paid it.

XQ129. You kept renewing these? A. Yes.

XQ130. How many of them were there? A. I

 1219

don't know. I could tell by the books. About half a dozen notes, I guess.

XQ131. And the money, under the contract, was due within thirty days after the delivery of this carload? A. There were payments due every ten days after the delivery. I was paid everything up; he was short of money and gave notes out and these notes came due and went to protest and he renewed them. Now he has paid them all.

XQ132. Do you know anything about the trouble about paying his men, as to whether he kept renewing their weekly checks for seven or eight months? 1220
A. I know nothing much about the job, because I have been on the job very seldom.

XQ133. Are you a member of the American Anti-Boycott Association?

Mr. Merritt: Objected to as incompetent, irrelevant and immaterial.

A. I know nothing at all about it.

XQ134. You are not a member of it? A. No, sir.

XQ135. Do you know what it is? A. No, sir; I have no idea at all.

XQ136. Would you like to know? A. Well, it 1221
might be some good if I did know.

XQ137. Do you know whether Worden & Hausbeck handle only the products of non-union mills, or do they handle union mill products as well? A. They handle everything, I think; I really only think; I don't know much about it. I gave them my order and I never asked any questions.

XQ138. You were running a union mill and paid union wages, and had union hours; didn't you think in giving your order to them for this carload that

they were going to give you union trim? A. There was never anything came up with me before this about the union trim or anything else, so I did not pay any attention when I gave the order.

XQ139. Didn't you expect any trouble at all.

Mr. Merritt: Objected to; improper in form; no testimony in this case as to what this witness expected to get.

A. No. I never heard anything about non-union
1223 trim or anything else until this trouble came up.

XQ140. You knew of that distinction between the different kinds of trim, recognized in the trade, didn't you? A. It never bothered me in any way; I bought it out West in many places and they never bothered me until this job here.

XQ141. Are you sure this other stuff you bought was non-union? A. I could not say, I know I have used a good deal of stuff from different houses.

By Mr. Maloney—

XQ142. When Simpson came or Donovan came
1224 the first time, your shop was not a union shop, was it? You had both kinds of men, union and non-union? A. Yes.

XQ143. How many non-union men did you have, five? A. No; I only had one non-union at that time when Simpson came.

XQ144. The first time? A. Yes; the first time. That was in October, I think.

XQ145. I understood you to say that at the time they went out that there were five non-union men? A. Yes.

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XQ146. So you had five non-union men in there then? A. Yes.

XQ147. And your shop then was not a union shop as you now understand it under this agreement? A. No; it was not.

XQ148. And it never was a union shop until the making of this agreement in March? A. No, sir.

XQ149. What hours did the men work at the time that these men went out? A. Forty-four hours a week; eight hours a day.

XQ150. Does that mean they worked eight hours a day and then on Saturday how many hours? A. Four hours on Saturday. They worked from eight until five during the week and Saturday from eight to twelve.

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XQ151. Eight to five is nine hours. A. There is an hour for noon; dinner.

XQ152. There was no complaint made at all by the union men about the hours they were working? A. No.

XQ153. Where was the job that you were working on in March, or shortly prior to the time this agreement was made? A. In the Bronx.

XQ154. For a lawyer named Mathieson? A. Yes; Comptroller Mathieson.

1227

XQ155. When you entered into this agreement, which has been marked Exhibit 8 of this date you agreed by Article VIII thereof to pay as a minimum wage to the bench and machine hands, $17 a week? A. Yes, sir.

XQ156. That was a higher minimum wage than you had been paying theretofore? A. No.

XQ157. I understood you to say you paid only $16.50? A. $16.50, $17, $18, $19, $22.

XQ158. This was a higher minimum wage than

you had paid before. The minimum is the least. A. I guess I only had one man $16.50. All $17 and $18 at that time.

XQ159. So this in reality was a higher minimum wage than you had theretofore paid? A. I paid higher before this thing.

XQ160. I am speaking of the minimum, the least, the lowest, the lowest wage which you agree to pay in this contract is $17? A. That is the agreement, that I have to pay the men $17 a week.

XQ161. Before that time, there were men who
1229 received a lower wage than that? A. Only one I know of.

XQ162. There were some? A. There was only one.

XQ163. One you know of? A. Yes.

XQ164. The agreement does not purport to provide what wages you shall pay over the minimum wage? It simply provides that you shall pay such wages as shall be agreed upon above that minimum wage? A. Yes.

XQ165. It merely provides that you shall pay such wages as shall be agreed upon between you and the men you employ? A. Yes.

1230 XQ166. Then you are at liberty to pay them any wages you can get them to work for? A. No, sir.

XQ167. I mean, over $17. A. Yes, sir. $17 is supposed to be the wages, machine hands and bench hands.

XQ168. Article VIII provides: "It is further agreed that the better grade of mechanics shall receive a higher rate of wages than the minimum wage as agreed upon between employer and employee." That is to say, anything beyond $17 a

week is a matter of bargain between you and the employee? A. Yes.

XQ169. Now, when these men went out on this Saturday, you shut the shop down yourself and did not open it at all the next week? A. I wanted to, but none of them would go back, they wanted to find out. I called up the telephone every day to get Donovan up to my place to find what the trouble was, so that I could get my men working again.

XQ170. I have notes here to the effect that you said you shut the shop down the following week? A. No; they shut it down; they called it a lockout. 1232

XQ171. After the so-called lockout on the Saturday preceding you testified in your direct examination that you shut the shop down for a week? A. No. I said the shop was shut down for a week. I did not shut it down. As long as I could not get the men to work, there was no use running the mill.

XQ172. Did you during the next week go out to look for men? A. No; I did not look for men.

XQ173. Then the fact was, you shut the shop down for a week and after that, began to employ suchmen as you could get? A. No. The men were locked out. 1233

XQ174. I am talking of after the lockout? A. I had been telephoning for a whole week to get Donovan to tell me what the trouble was, so to get the men back.

XQ175. You made no effort during the succeeding week to employ any men at all? A. I wanted to find out what the trouble was.

XQ176. You made no effort during the succeeding week to employ any men at all? A. No; because——

1234

XQ177. Never mind any becauses. After this first week succeeding this so-called lockout, you did look around and made an effort to and did employ some men to go to work in your shop? A. I employed men and opened up the shop.

XQ178. Those men were union and non-union? A. Union and non-union.

XQ179. Anybody you could get? A. Yes, sir.

XQ180. And they were mixed, union and non-union? A. Yes, sir.

XQ181. You got them wherever you could? A.
1235 They came around to me.

XQ182. You advertised for them? A. No, sir.

XQ183. Men came to your place looking for work and you employed them? A. Yes.

XQ184. Your shop continued to be that kind of a shop until down some time in March, 1911? A. Yes, sir.

XQ185. Then you had this job over in the Bronx for an attorney Mathieson and you had trouble with the union there because your shop was not what they called a union shop? A. Because I had not signed an agreement with the union.

XQ186. Did you understand that to mean you
1236 did not have a union shop? A. No. I understood I had to sign the agreement. I could not run the shop with union or non-union unless I signed the agreement. I had to sign the agreement to run the mill.

XQ187. Did you understand before you signed this agreement that you had a union shop? A. No. I considered my shop union when I employed union men.

XQ188. You also had non-union men? A. Yes, sir.

1237

XQ189. These men made it plain—in March, 1911—that your shop was what they called a non-union shop? A. They told me that; yes.

XQ190. Did they leave th eattorney's job first, the Mathieson job, the carpenters? A. No; they never left the job.

XQ191. They came to you and told you that they would leave unless you unionized? A. They worked the job right through, worked all the stuff I had on the job and everything else, but they said they would leave the job if I did not sign up with the union.

1238

XQ192. You understood by that, didn't you, that you were to have a union shop, what they called a union shop? A. After I signed that agreement?

XQ193. Yes. You conferred with them as to what they meant by a union shop, didn't you, so as to know what you were going to do when you signed the agreement? A. Yes.

XQ194. And they gave you to understand what a union shop was? A. Yes.

XQ195. And thereupon they embodied it in this contract and that was satisfactory to you? A. Yes, sir.

XQ196. And you signed it? A. Yes, sir.

1239

XQ197. And the men were not called out on that Mathieson job? A. No. Well, that——

XQ198. Never mind the reasons. I only want the answers, yes or no. Then we'll get along quicker. When Donovan spoke to you on or about the 19th of November, 1910, will you swear he did use the word "unfair" to you, or did he speak about non-union trim? A. Unfair.

XQ199. Did you ever hear that word used before in connection with material? A. No.

XQ200. Did you ask him what that meant? A. I did not ask him; in fact, that day I did not have anything to say to Donovanat all, when he said it was unfair trim; "It's unfair trim," that's all he said to me.

XQ201. And you did not know what unfair trim meant? A. I had an idea.

XQ202. What was your idea? A. That it was non-union trim, at that time.

XQ203. You understood it was trim made under conditions that they described as non-union conditi-
1241 tions? A. Non-union conditions.

XQ204. Did he make it plain to you that the men would not work on non-union trim? A. That is what he said.

XQ205. How long before that was it you had met Simpson? A. Before they called us out?

XQ206. Before the 19th of November. A. I suppose six weeks.

XQ207. And when you saw Simpson, I understood you to say Simpson asked you who had this contract for the Groll job. A. Yes.

XQ208. You told Mr. Simpson, Hagemeyer? A. Yes, sir.
1242

XQ209. Had you an assignment of that contract from Hagemeyer? A. Not at that date.

XQ210. How did Simpson come to you to ascertain about the contract? Did you have any interest in it at all? A. No; I made the window frames for Hagemeyer.

XQ211. So that at that time you had no connection with the contract? A. No; it was only on the window frames.

XQ212. He simply asked you who had the job? A. Yes.

XQ213. And you told him it was Hagemeyer? A. Yes, sir.

XQ214. Did you ever meet Simpson before that time, so that you knew him? A. Oh, I knew him, but I never had spoken to him of any account; never had anything to say to him. I knew him by sight.

XQ215. Were you friends, or had you ever spoken to him before? A. No.

XQ216. Were these window frames which you had put in for the job a part of the contract between Groll and Hagemeyer? A. Yes; I made the 1244 window frames.

XQ217. How did you happen to be putting the window frames in? Did Hagemeyer have a contract with you? A. Yes.

XQ218. For part of the Groll job? A. For the window frames at that time.

XQ219. For part of the Groll job? A. It was at that time only for window frames.

XQ220. Was it a separate agreement for the window frames? A. Yes; with Hagemeyer.

XQ221. Were you here when Hagemeyer testified at the last examination? A. Yes, sir.

XQ222. Was there another contract than the 1245 one which was offered in evidence here? A. No. The first part was the window frames, which had to be delivered before the bricklayers came.

XQ223. Was your contract for the window frames written? A. No.

XQ224. Was Hagemeyer's contract with Groll written? A. Yes.

XQ225. Did Hagemeyer have more than one written contract that you know of? A. No.

XQ226. The window frames formed part of this

written contract which was put in evidence here before? A. Yes.

XQ227. By November 19, 1910, did you have an assignment of Hagemeyer's contract? A. Yes, sir.

XQ228. How long before that time had you taken an assignment of it? A. I could not say exactly; four or five weeks.

XQ229. It was about six weeks before November 19 that you saw Simpson? A. Yes; at the time I saw Simpson I did not have the contract.

XQ230. Was it about a week afterwards that you
1247 took the contract? A. I could not say.

XQ231. What is your best recollection? A. No; I don't think it was,——

XQ232. Well, how long was it? A. Because—Oh, yes; you can say a week.

XQ233. What did Simpson say when he came and asked who had the Groll job? A. He asked me who had Groll's job and I told him George Hagemeyer.

XQ234. Did you ask him why he came to you? A. No; I did not ask him that.

XQ235. Did he say that he was a delegate from the union? A. Yes, sir; he told me he was a dele-
1248 gate from the union.

XQ236. Did you ask him why he wanted to get the information from you? A. No.

XQ237. Did he say that this Groll job was being supplied with non-union material? A. No.

XQ238. Did he refer in any way to the contract under which you were furnishing the window frames? A. No.

XQ239. What else did he say to you in addition to asking you who had the job? A. He only asked me if I had the contract with the Groll Construc-

tion Company. I said no, I had furnished the window frames, that I did not have the trim on it.

XQ240. How did you come to mention the trim? A. He asked me if I had the trim on it and I said no.

XQ241. Did you ask him why he came to you? A. No.

XQ242. Did you get an idea that the union was dissatisfied with Hagemeyer's contract? A. No.

XQ243. Did you think that there might be trouble over it? A. No; I did not think there would be any trouble over it. 1250

XQ244. What inference did you draw from Simpson's talk with you? A. He asked me if I furnished the window frames. I said "Yes."

XQ245. Did you not ask him what he came there for, except finding out about that job? A. No.

XQ246. Didn't you think that there would be trouble with the union men in some way over the job? A. No.

XQ247. Did you know he represented the union? A.Yes, but I did not think there would be any trouble over it.

XQ248. Didn't you know when you took the assignment of the contract from Hagemeyer later 1251 that the union was dissatisfied with this material? A. I knew nothing about it at all until it came on.

XQ249. Where did you get this idea about the meaning of the word unfair that you have given us here? A. I got that when Donovan came and took my men out.

XQ250. That is the first time you had any idea of the word unfair used in that connection? A. Yes, sir.

XQ251. And you immediately understood it to

1252 mean material which was made under non-union conditions? A. Yes.

XQ252. Was Donovan known as an organizer amongst the union men? A. Yes; I guess he was.

XQ253. And he organized your shop into a union shop? A. Yes, sir.

XQ254. Not until the following March, though; 1911? A. March, 1911.

XQ255. Only two of the union men came back the second week or thereafter succeeding this so-called lockout? A. Yes.

1253 XQ256. Did you ever see the other six? A. Yes.

XQ257. Since that time? A. Yes.

XQ258. Did they come back to your employ? A. Yes.

XQ259. Was that after this agreement was signed? A. Yes.

XQ260. Did you send for them to go to work or did they apply for a position? A. They applied for the position; I did not send for them.

XQ261. You said that your understanding of this agreement was, that you were not to buy or use any non-union trim? A. Yes.

XQ262. Do you use any 1⅜" size sash? A. Yes,

1254 sir.

XQ263. With respect to 1⅜", you might use it, no matter where it is made, in union or non-union conditions, might you not? A. Yes.

XQ264. So that your understanding of the agreement is somewhat different from what it was a little while ago? A. I have not bought any sash since I have been in the union. I made them up myself.

XQ265. Do you understand that you may use any trim, whether made under union or non-union conditions, that would be 1⅜" or under in size? A. That is only in sash.

1255

XQ266. D oyou understand that in sash you may use such trim, union or non-union, 1⅜″ size or under? A. Yes.

XQ267. Did you ask the union men, when they were organizing your shop, the reason for this difference in the sizes? A. No.

XQ268. Do you understand why they are willing that you should work and use 1⅜″ size and under and not a higher size? A. That is only in sash.

XQ269. Well, but do you understand? A. No; he told me I could buy sash 1⅜″ size anywhere; there was nothing on that.

1256

XQ270. Did you understand the reasons why they were willing that you should use any non-union material, so long as it was not within certain sizes? A. No; I did not go into the details. I know I cannot use anything but the sash; no doors or anything else unde rsize or over size.

XQ271. You could use flooring and other planed work. A. I don't know; we don't handle that material at all; only trim.

By Mr. Mayer—

1257

XQ272. Did Donovan tell you that he was the organizer of the union? A. Yes, sir.

XQ273. He told you that? A. Yes, sir.

XQ274. You are sure of that? A. Yes.

XQ275. And you are quite as sure of that as you are of the rest of the conversation you had with Donovan? A. Yes.

XQ276. Did Simpson tell you who he was? A. He is one of the organizers, too.

XQ277. I call your attention to this Exhibit 8

of to-day and call your attention to the signature, John J. Donovan. Will you read that? A. Yes.

XQ278. Will you read the rest of it, besides his name? A. John J. Donovan, Business Agent.

XQ279. So that your recollection was at fault when you told us that he was organizer; is that right? A. Well, he presented himself as——

XQ280. Your recollection was at fault? A. Yes. Well, he is the one who got me to——

XQ281. He was the man who spoke to you? A. Yes.

1259 XQ282. Then you were mistaken when you said he was the orgnizer? A. Yes; he was the business agent.

XQ283. He was the business agent? A. Yes.

Re-direct examination by Mr. Merritt—

RDQ284. How much money did you have involved in this Mathieson job in the Bronx, in round numbers?

Mr. Maloney: Objected to as immaterial, irrelevant; in no way binding on these defendants.

1260

A. $2,100.

RDQ285. And I understand it was for the purpose of completing that job that you signed that contract? A. Yes, sir.

RDQ286. This contract that you have signed is printed in form, is it not? A. Yes, sir.

RDQ287. Is there any clause in it which was suggested by you? A. No, sir.

RDQ288. You signed it in the form it was presented to you? A. Yes, sir.

1261

RDQ289. You stated that you purchased material from out West. I wish you would give me the names of the concerns you think of now from whom you purchased material. A. Ebey.

RDQ290. Where are they? A. I could not tell you just now. It has slipped my mind, unless I look it up. Montgomery Sash & Door Co., Diamond Sash Company. Worden & Hausbeck were the agents and when I gave in the order they bought the stuff and sent it in to me; at least, had the stuff sent to my mill.

1262

RDQ291. Then all of your material was purchased from Worden & Hausbeck? A. Yes, sir.

RDK292. You have not purchased any material from them since you signed this contract? A. No, sir.

RDQ293. Nothing from Worden & Hausbeck? A. No, sir.

RDQ294. I will ask you whether or not these labor difficulties concerning which you have testified are the only reasons why you have stopped purchasing from Worden & Hausbeck? A. I did not have much work. I have been very slow with work from March 27, so I did not need any stuff. I made up all the stuff I had. I have only been employing three or four men since.

1263

RDQ295. That applies to your whole business, then? A. I figured on the work but could not get any.

RDQ296. Does that also apply to your business since the execution of the contract, Exhibit 8? A. I suppose it does, because material is so high they are buying it much cheaper out West.

RDQ297. Does this statement about not getting work apply also to the business you have done

since the execution of that contract? A. No.

RDQ298. So when you stated that you could not get work, you are covering the period between November, 1910, and the execution of this contract, in March, 1911? A. Since March, I have not done very much since I signed this contract, because I have not taken anything in.

RDQ299. You have not done much work since the date of this trouble, in November, 1910? A. No; I have not.

1265 *Re-cross examination by Mr. Mayer—*

RXQ300. And therefore you have had no occasion to buy materials since March, 1911? A. Yes; I had occasion, but I could not get——

RXQ301. Small odds and ends? A. Yes; but I need quite a lot of them sometimes.

RXQ302. But you have not had occasion to need very much in the last seven or eight months? A. Yes.

RXQ303. Then you had occasion to use a great deal of stuff since last March? A. I have had occasion to use them, but I made it up myself.

1266 RXQ304. You have employed on an average about four men? A. From the latter part of June I employed up to last week an average of four men.

By Mr. Maloney—

RXQ305. Have you been running your shop as a union shop under this agreement since March, 1911? A. Yes, sir.

RXQ306. And business conditions have been bad since about that time? A. Yes.

1267

Re-direct by Mr. Merritt—

RDQ307. What are the facts about this purchase of material? Have you had occasion to purchase material from Worden? A. I have had to get it from union mills. I could not buy it from Worden unless he had a union mill to send it to me from.

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; cannot possibly be binding on these defendants.

1268

RDQ308. I wanted to find out whether or not these events concerning which you have testified, that it kept you from buying from non-union mills? A. I have not had occasion to buy much stuff this spring, but if I had, I would have had to look for a union mill. I could not buy it from Bristol or Montgomery or any of these people unless they were union.

Mr. Mayer: I ask to have stricken out "but if I had" etc.

Mr. Maloney: Conjectural, speculative, incompetent, irrelevant and immaterial.

1269

RDQ309. Are you acquainted with the comparative prices between union and non-union material? A. Well, not much.

Subscribed and sworn to before me this day of , 1911.

1270 Moritz Arnstein for Complainant—Direct.

MORITZ ARNSTEIN, a witness called on behalf of Complainant, being duly sworn, testified as follows:

•

Direct examination by Mr. Merritt—

Q1. What is your age, Mr. Arnstein? A. Thirty-two.

Q2. Do you live in New York City? A. I do.

Q3. You do business as a dealer, do you not, in sash, window frames, windows, etc? A. Sash.

Q4. What are the materials that you do business
1271 in? A. Glazed window sash.

Q5. Where is your place of business? A. 792 Amsterdam Avenue.

Q6. You do business under the name of Moritz Arnstein? A. I do.

Q7. And you are purely a dealer, and are not engaged in manufacture? A. I am a dealer and not engaged in manufacture.

Q8. How long have you done business in this way? A. Since 1900.

Q9. I show you what purports to be an agreement executed by you as party of the first part and Harry L. Cook and John Rice as parties of the
1272 second part, for the International Union, United Brotherhood of Carpenters and Joiners of America, and ask you whether you recognize that agreement? A. I do.

Q10. Is that your signature to it? A. It is.

Q11. Did you see the two other parties, Rice and Cook, sign it? A. I did.

Mr. Merritt: I will offer this agreement in evidence.

It is stipulated that no objection will be

taken to it on the ground that the original is not offered in evidence, but all other objections are reserved.

Agreement marked "Exhibit No. 9," and reads as follows:

"ARTICLES OF AGREEMENT.

"This agreement entered into this 12 day of January 1911, between the party of the first part Moritz Arnstein New York City, purchasers and distributors of window sash, and 1274
the party of the second part, International Union, United Brotherhood of Carpenters & Joiners of America, General Office Indianapolis, Indiana, and its subordinate Union known as Joint District Council of New York, N. Y.

ARTICLE I.

The party of the first part hereby agrees as purchasers of window sash that they will not handle or sell any prison made sash, or any sash over 1⅜" thick that have not been manufactured in Shops having trade agreements 1275
with the party of the second part, the United Brotherhood of Carpenters and Joiners of America, based upon agreements that exist in New York City.

ARTICLE #2.

The party of the first part further agrees that they shall not, as purchasers and distributors, have the above mentioned material sub-contracted for through any firm or cor-

1276 Moritz Arnstein for Complainant—Direct.

poration not under agreement with the party of the second part.

ARTICLE #3.

Party of the first part further agrees that they will furnish a list of all contracts made for sash over 1⅜" thick to the Joint District Council, #142 East 59th St., New York City, stating the manufacturer from whom such purchase has been made.

1277

ARTICLE 4.

Party of the second part agrees for its members to erect all material sold by parties of the first part according to the above conditions, and the party of the second part further agrees that none of the members of their organization shall install or erect any window sash made in prisons, or any window sash over 1⅜" thick made in non-union factories.

In case of the breach of the terms or any of the terms of this Agreement, by the party of the first part, then the party of the first part

1278 forfeits and agrees to pay as liquidated damages to the parties of the second part, the sum of Two thousand five hundred dollars ($2,500.00).

In witness whereof of the party of the first part has caused these presents to be signed by its proper officer and its corporate seal to be affixed and the parties of the second part have caused these presents to be signed by their proper officer empowered to execute the same.

If the Courts of the State or City of New

1279

York shall decide that any clause of this Agreement should be unconstitutional or illegal, it shall not invalidate the other portions of this Agreement, but such clause or clauses shall be stricken out.

MORITZ ARNSTEIN
For the party of the first part

WITNESS:
HARRY L. COOK
General Organizer U B
JOHN RICE Gen. Org.
For party of the second part."

1280

Q10a. I will ask you, Mr. Arnstein, to state the circumstances which led you to sign this agreement, exhibit 9?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. The carpenters would not handle the 1¾" sash unless they were made in union shops, therefore we had to agree to buy nothing but from union mills anything thicker than 1⅜".

Mr. Mayer: I move to strike out as hearsay, conclusion, incompetent, irrelevant and immaterial.

1281

Mr. Maloney: Same objection.

Q11a. Up to the time of the date of this agreement in January, 1911, you had been dealing in 1¾ sash, had you not? A. I had.

Q12. From non-union or open shop concerns? A. Yes. That is, I had no occasion to know whether they were union or non-union. I did not

care. It never entered my mind to inquire whether they were union shops or not.

Q13. As a matter of fact, you know they were mostly from non-union shops, do you not? A. Now I know it, but until then I did not care, it was not an issue at all.

Q14. And you had been doing business successfully up to that time? A. I had.

Q15. Then why do you state that you were unable to do business unless you signed this agreement? You had been doing business successfully
1233 before, without signing it? A. I had been told that a certain job, that the sash must be union made, otherwise they will not be hung by the carpenters.

Mr. Mayer: I move to strike out the answer as incompetent, irrelevant and immaterial, hearsay, a conclusion on the part of the witness, wholly improper.

Q16. Who told you this? A. Mr. Rice.

Q17. The same John Rice who signed this agreement? A. Yes.

Q18. And was this a job for which you had con-
1284 tracted to furnish the sash? A. Yes, that was it.

Q19. Where was this job? A. 113th Street and Broadway.

Q20. How much money did you have involved in connection with that job?

Mr. Mayer: I object, as incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. About $4,000.

Q21. And will you state whether or not you had already purchased or contracted to purchase materials for that job? A. I had it purchased.

Q22. Had it been delivered in New York City? A. No.

Q23. Whom had you purchased it from? A. From the Gould Manufacturing Company.

Q24. And just what did Mr. Rice say to you on this occasion? A. He informed me that the sash would have to be union made.

Q25. Referring to the sash on this particular building only? A. On this particular building only.

Q26. Is that all the conversation which took place at that time? A. That is all.

Q27. How did you come to sign this agreement? A. I made inquiries further about it and I saw one of my competitors was held up on a job, so I set about to find ways and means of straightening this out without delivering the sash and having it rejected on the building.

Q28. The sash had not been delivered up to that time? A. No, it was in my place held for delivery. I saw three persons in the city and they told me there was one way out of it, to agree not to buy non-union sash. If possible, they would manage to help me along to pass this.

Q29. Who stated this to you? A. A friend of mine.

Q30. Who was it? A. Is it particularly necessary to have his name?

Q31. Was it D. W. O'Neill of the Empire City-Gerard Company?

Mr. Mayer: I object as incompetent, irrele-

vant and immaterial, in no way binding on these defendants.

A. Yes.

Q32. What did Mr. O'Neill say to you?

Mr. Mayer: I object, incompetent, irrelevant and immaterial.

A. If I am not compelled to do it, I would not want to repeat the conversation. It was done between—it is really a private proposition between
1289 me and him; I don't know why I should repeat it. If I have got to answer it, I will.

Q33. Do you know Mr. O'Neill is a defendant in this case? A. I don't know it.

Q34. That is the reason I want the conversation between you and Mr. O'Neill.

Mr. Maloney: That is no reason why we should consent to it, and we object as incompetent, irrelevant and immaterial, and hearsay; a private conversation between gentlemen, in no way relevant to the issues in this case.

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Q35. You will not answer the question? A. I would not like to, if I don't have to. This was a talk between me and Mr. O'Neill, and there were other people I have talked this matter over with, not only Mr. O'Neill.

Q36. Did not Mr. O'Neill suggest to you that the matter might be straightened out by signing a contract of this character?

Mr. Maloney: I object, incompetent, irrelevant and immaterial; hearsay.

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A. It was not suggested. Mr. O'Neill told me it was the best way out of it. He did not suggest to do so. He said it would be the best way out of it.

Q37. Did you ask him whether that would not be a good way out of it? A. I knew nothing about the contract. I had not the slightest idea if they would accept me. I said I did not know whether the union would accept my agreement, as I am not a woodworking mill.

Q38. In your conversation between you and Mr. O'Neill, one of you must have raised this question of the contract first?

1292

Mr. Maloney: It does not follow. That is a leading question; argumentative statements.

Q39. You testified that he said to you that that was the best way out of it? A. He advised me to see the heads of the union, whether we could not come to some agreement about it.

Q40. Didn't he say that he would see them for you? A. He did.

Q41. Didn't you testify in another case in this connection that "Mr. O'Neill suggested to me that this situation may be overcome if we agree to buy nothing else but union sash"?

1293

Mr. Maloney: I object as leading the witness, calling him as on cross-examination, incompetent, irrelevant and immaterial; hearsay.

Mr. Mayer: And an evident attempt to impeach his own witness.

A. Yes.

Q42. Well, what is your recollection on that point now? Is that true or not? A. It is.

Mr. Maloney: Do you mean to imply that there is anything untrue in what he has testified to here? I thought he testified to that same thing. The witness has already testified that Mr. O'Neill had a conversation with him and advised him to make some agreement with the union, and that he is called here as a wit-
1295 ness on behalf of the complainants, and an attempt is being made to cross-examine him and impeach his testimony.

Q43. Did Mr. O'Neill make any appointment for you to meet Mr. Cook? A. He did.

Q44. That is the same Mr. Cook who signed that agreement, Exhibit 9? A. Yes, sir.

Q45. Did you meet Mr. Cook at that time? A. I did.

Q46. Was that shortly before you signed that agreement? A. Yes.

Q47. Did Mr. Cook have that agreement with
1296 him when he came to see you? A. Not at that time.

Q48. What was your conversation with Mr. Cook at this time? A. I stated the case clearly to Mr. Cook, the position I had been in for the previous nine or ten years, gotten along without ever being molested, and Mr. Cook told me he would bring it before his people to see whether he could find some solution of it.

Q49. Is that about all you recall of that conversation at that time? A. We had other conver-

sations, but I can't remember exactly everything.

Q50. That is all you recall in relation to this matter? A. Yes.

Q51. Did you part with an arrangement for a subsequent meeting? A. Did I what?

Q52. That you were to meet at a subsequent date? A. Yes, after the case had been considered by the union.

Q53. How long after that was it that you met Mr. Cook again? A. About a week.

Q54. Were these meetings at your place of business? A. What meetings? 1298

Q55. This first one, where Mr. Cook stated he would try and find out what could be done, etc. A. This was in Mr. O'Neill's office.

Q56. The first one was in Mr. O'Neill's office? A. Yes, sir.

Q57. Where was the second meeting? A. At my office.

Q58. Was there anybody present besides you and Mr. Cook? A. My office force.

Q59. Referring to this first meeting in Mr. O'Neill's office, was there anybody present besides you and Mr. Cook? A. Mr. Rice.

Q60. Was Mr. O'Neill there? A. Yes. 1299

Q61. Now referring to the second meeting, where you met Mr. Cook, was Mr. Rice present? A. That I can't answer.

Q62. Did Mr. Cook bring the agreement with him? A. No, not at that time.

Q63. Was Mr. O'Neill present? A. No.

Q64. What took place in the way of conversation between you and Mr. Cook at that time, referring now to the second meeting? A. Mr. Cook told me he would take this matter under consider-

Mr. Mayer: Same objection.

ation and advise me, he would put it before his committee and let me know in the next few days what could be done. I told Mr. Cook, "I am willing to do almost anything so long as I would not get into trouble with the builder I was furnishing the sash to." Then I suggested to him myself if I would agree to buy nothing but union sash in the future and put a bond out for it, whether that would be satisfactory to him.

1301 Q65. You made that suggestion yourself? A. I did.

Q66. Did that suggestion originate with you? A. I don't think so.

Q67. Where did you get it from?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; wholly improper.

A. I cannot answer that.

Q68. How do you know it did not originate with you? A. I am not positive about that either.

Q69. Could you state whether or not Mr. O'Neill suggested to you that you make this suggestion?

1302 A. I can't answer that.

Q70. You have no recollection on that point whatsoever? A. No.

Q71. What made you testify that the suggestion did not originate with you?

Mr. Mayer: I object to that and direct the witness not to answer those questions. It is not fair to impeach your own witness. I do not think you ought to go beyond the scope of your direct examination. This witness is ap-

parently friendly, and is answering questions without any difficulty.

A. I said the truth.

Q72. Then you know it originated with someone else, but you do not know with whom it originated? A. Yes.

Q73. And you have no recollection as to who put that in your mind? A. I have not.

Mr. Maloney: I move to strike out all of it as incompetent, irrelevant and immaterial. 1304
What bearing can it have on this case that somebody, that he, gave a bond for the fulfilment of a contract?

Q74. When did you next see Mr. Cook and Mr. Rice concerning this? A. Three days after that.

Q75. And who was there? A. Mr. Rice, Mr. Cook and Mr. Thomas C. Edmunds.

Q76. Was Mr. O'Neill there? A. No, this was in Mr. Edmond's office.

Q77. And did Mr. Cook and Mr. Rice bring this agreement with them at that time? A. They did. 1305

Q78. And you signed it in their presence? A. I did.

Q79. And they signed it in your presence? A. They did.

Q80. And in this agreement I notice that it states in effect that $2,500 should be liquidated damages in case you violated any part of the agreement, and I will ask you if that is what you meant by the bond? A. Yes.

Q81. I will ask you why you signed this agreement?

1306

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial. How is it any of our business why he signed the agreement?

A. Not to have any future trouble.

Q82. Do you refer to the job on which you were already furnishing material as future trouble? A. Yes.

Q83. Then it was to also avoid trouble on that job for which you had already contracted to furnish material? A. Yes.

1307

Q84. Did you have any other contracts for non-union material at that time? A. We never made any contracts for union or non-union material. I had other contracts.

Q85. Did you have contracts for material from other concerns whom you subsequently learned were non-union concerns? A. I did.

Q86. Who were those concerns? A. Gould Manufacturing Company.

Q87. That is, other contracts besides this one for that particular building? A. Yes.

Q88. And were there any other concerns? A. I cannot recollect whether we had any from Paine

1308

Lumber Company or not.

Q89. Had you dealt with Paine Lumber Company from time to time? A. Yes, I dealt very heavily with them at one time.

Q90. Did you have any non-union material on hand? A. I did.

Q91. Besides this, which was going into that particular building concerning which you have testified? A. I did.

Q92. Did you have any understanding with Mr.

1309

Rice and Mr. Cook as to the use of this non-union material? A. I did.

Mr. Maloney: Our objection to this whole line of testimony has been made, as incompetent, irrelevant and immaterial, and hearsay, in no way binding, and we do not wish to repeat it so as to interrupt the examination.

Q93. What was that understanding? A. That all the material I had got on hand was to be used, without any trouble.

1310

Mr. Maloney: Is the purpose of this examination to show that the witness had some understanding with these men referred to, other than the one which has been embodied in this written contract offered in evidence? If that is so, I make the objection that that is incompetent, irrelevant and immaterial, and it is all embodied in the written agreement, unless it took place at some subsequent time, which we do not know anything about.

Q94. And your understanding was, that if you signed this agreement, Exhibit 9, the non-union material which you had on hand or had contracted for, could be utilized without difficulty? A. Yes, sir.

1311

Mr. Maloney: If it appears from the last question that the understanding of the witness was his understanding of the written agreement, I move to strike it out as incompetent, irrelevant and immaterial, and as asking for an interpretation of the contract from the witness.

1312 Moritz Arnstein for Complainant—Direct.

Q95. Did Mr. Cook and Mr. Rice so state to you? A. They did.

Q96. What was the total amount of material involved, if you recall? A. I cannot recall it, I would have to refresh my mind from my books.

Q97. Could you state whether it would be over $5,000? A. It would.

Q98. Would it be $10,000? A. No.

Q99. You think it would be somewhere between $5,000 and $10,000? A. About that.

Q100. You stated that there was $4,000 involved
1313 on this one building which Mr. Cook or Mr. Rice referred to, did you not? A. That was answering your question, how much that contract was. That contract included glass also. That was my contract for that house for sash and glass.

Q101. Was the glass in the sash at that time? A. Yes.

Q102. And how much non-union sash was there outside of this contract for that one building, in round numbers? A. Between $5,000 and $10,000.

Q103. Outside of this one contract? A. Yes.

Q104. Did Mr. Edmonds sign any agreement at this time when he was present there with Messrs.
1314 Cook and Rice? A. He did.

Q105. In your presence? A. He did.

Q106. Did you talk to him concerning this matter? A. I did.

Q107. Did you ask him to come there? A. I did.

Q108. As I understand it, you signed this agreement in order to be able to dispose of the non-union sash you had on hand, and avoid future trouble? A. Yes, sir.

Q109. Have you lived up to the agreement? A. I surely did.

1315

Q110. You have not purchased any sash from Paine Lumber Company or the Gould Manufacturing Company since? A. Not 1¾ thick.

Q111. You may have purchased some 1⅜? A. Yes, sir.

Q112. But you have purchased none but 1⅜? A. Yes.

Q113. Have you bought your sash, or did you prior to the signing of this agreement, buy any sash from other concerns besides the Paine Lumber Company and Gould Manufacturing Company? A. I did.

1316

Q114. What other concerns? A. A good many.

Q115. Are there any of the other plaintiffs in this issue? The R. McMillen Company? A. No.

Q116. Morgan Company? A. No.

Q117. The Bristol Door & Lumber Company? A. No.

Q118. W. D. Crooks & Sons? A. No. The others were all eastern manufacturers.

Q119. And can you state from your knowledge now, whether or not these other concerns were non-union at the time you were dealing with them? A. I know now that they are not union shops.

Q120. Then all of your sash at the time you signed this agreement was being purchased from non-union concerns? A. Yes.

1317

Q121. Is all of your 1¾ sash now being purchased from union concerns? A. Yes.

Examination suspended.

Adjourned to Thursday, November 16, 1911, 2 P. M.

1318 Exhibit 8.

EXHIBIT 8.

ARTICLES OF AGREEMENT, entered into on the 27 day of March, 1911.

ARTICLE I.

The intent of this Agreement is to lay foundation for peace in the Mill Work Industry, and the bringing about of uniformity as to hours, wages and general conditions, and to provide for the settlement of any and all
1319 grievances that may arise between the TREMONT MOULDING MILL CO., party of the first part, engaged in the manufacturing of Doors, Sash, Window Frames, Mouldings, Interior Trim, etc., and INTERNATIONAL UNION, United Brotherhood of Carpenters and Joiners of America, General Offices, Indianapolis, Indiana, and its subordinate Union, known as Joint District Council of New York, parties of the second part.

ARTICLE II.

1320 The party of the first part, Tremont Moulding Mill Co. agrees to confine themselves strictly to the manufacturing of Mill Work material as herein specified, and agrees further that they will not engage in installing or erecting material in any building, or sublet the same to be erected or installed in any building.

And the parties of the second part agree that their members will not erect or install non-union or prison made material, it being

Exhibit 8.

understood that Window Sash 1⅜" thick and under, and Exterior Window Blinds are not covered under this Agreement, except that these shall not be prison made. 1321

ARTICLE III.

The party of the first part hereby agrees to hire none but members of parties of the second part in good standing of the United Brotherhood of Carpenters and Joiners of America who carry working cards of the subordinate union District Council, and the parties of the second part agree to furnish to the party of the first part union men and if such men cannot be furnished by the parties of the second part, then only such men that are willing to join this Organization shall be hired by the party of the first part. 1322

ARTICLE IV.

The parties of the second part agree for its members to erect all material handled by the party of the first part manufactured in shops under agreement with parties of the second part. And the parties of the second part further agree that none of the members of their Organization shall erect any material known in the Trade as Mill Work specified in this Agreement which has been made in prison or non-union factories, except as specified in this Agreement. 1323

ARTICLE V.

The Business representative of parties of

1324 Exhibit 8.

the second part shall be allowed access to shop or mill by making application to office of party of first part.

ARTICLE VI.

48 hours shall constitute a week's work. No overtime shall be allowed under the terms of this Agreement, only to save life and property, then only at the rate of double time; double time for Sundays and all legal holidays. No work shall be allowed on Labor
1325 Day under any circumstances.

ARTICLE VII.

It is further agreed that no work shall be performed on Saturday afternoon, both parties to this Agreement recognizing Saturday afternoon and the following as legal holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Decoration Day, Independence Day, Labor Day, Election Day, Thanksgiving Day and Christmas Day.

It is also agreed by party of the first part
1326 that the hours and wages as set forth in the Agreement with the Manufacturing Wood Workers Association, Article four (4), and any change or alteration during the life of said Agreement shall be recognized by both parties hereto.

ARTICLE VIII.

The minimum rate of wages to all Bench and Machine hands shall be $17.00 per week, and it is further agreed that the better grade

 1327

of mechanics shall receive a higher rate of wages as agreed upon between employer and employees.

ARTICLE IX.

No mechanic receiving a higher scale of wages than is herein provided shall suffer any reduction by reason of this Agreement, or during the life of this Agrement.

ARTICLE X.

1328 The party of the first part may employ one (1) apprentice for every eight (8) machine hands, and one (1) apprentice for every eight (8) bench men. Each apprentice to be under twenty-one years of age and shall serve a term of four years.

Wages for apprentices:

First year.....	$6.00	per week.
Second year.....	8.00	" "
Third year.....	10.00	" "
Fourth year.....	12.00	" "

1329 Apprentices upon becoming Journeymen shall receive the minimum wage as herein provided.

ARTICLE XI.

Laborers or porters shall not be permitted to run or feed machinery or do any work that requires the use of Carpenter's tools.

ARTICLE XII.

This Agreement expires on January 1, 1913,

1330 Exhibit 8.

and in view of the fact that existing contracts have been entered into by the party of the first part based upon the present mode of operation, it is hereby agreed by the parties of the second part that days shall elapse from the time of signing this contract to give the party of the first part time to fulfill contracts now on hand before the working conditions called for in this Agreement shall take effect.

ARTICLE XIII.

1331 In the event of any disputes arising between the parties to this Agreement, each party shall appoint a Committee of three, with full power to act. All questions in dispute coming before this Board to be settled by a majority vote of the members present and voting, and in the event of a tie vote, by the decision of an Umpire, who shall be chosen by the Joint Committee, and whose decision shall be binding upon both parties.

ARTICLE XIV.

1332 It is further agreed by parties to this Agreement that at least sixty days prior to the expiration of this Agreement, both parties shall meet for the purpose of considering the following questions:

First:—Are conditions in the Trade such as will warrant a reduction of hours to forty-four (44) hours per week?

Second:—What shall be the minimum rate of wages that shall prevail under the new agreement? It being understood that the bur-

Exhibit 8. 1333

den of proof shall be upon the United Brotherhood of Carpenters to show that they control the trade to a sufficient extent to warrant any reduction of hours or increase of wage.

This agreement does not apply to public or municipal work, except on condition that the state laws are complied with.

Signed party of the first part:
WILLIAM KLEIN
HENRY BLATTMAN

Signed parties of the second part: 1334
JOHN T. DONOVAN, B. Agt.
WM. SIMPSON, Gen. Organizer.

1335

1336 James C. Miner for Complainant—Direct.

PAINE vs. NEAL.

Hearing Saturday, December 2, 1911.

APPEARANCES:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

CHARLES MAITLAND BEATTIE,
For defendants Neal and others.

1337

C. J. HARDY,
By F. B. Whittaker,
For James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr Mayer,
For defendants Gethy and others.

WILLIAM BUTLER, Esq.,
By Mr. Mayer,
For defendants Murray & Hill Co., Jas. C. Forbes, Harlem River Lumber & Woodworking Co., Empire City-Gerard Co., and David W. O'Neill.

1338

JAMES C. MINER, a witness called on behalf of the complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. James C. Miner.

Q2. And your age? A. 35.

Q3. What is your business? A. Salesman.

Q4. You are salesman for the R. McMillen Company? A. I am salesman for the R. McMillen Company of Oshkosh, Wisconsin.

Q5. Where is your principal office? A. My office is at 1123 Broadway.

Q6. And how long have you been salesman for the R. McMillen Company? A. Seven years last September.

Q7. And do you solicit trade personally yourself? A. I do.

Q8. What territory do you cover in your capacity as salesman for the R. McMillen Company? A. 1340
Jersey, north of Trenton; Manhattan, that is, Greater New York; Connecticut and Massachusetts.

Q9. Can you give me the names of the customers on the Island of Manhattan to whom you have sold the goods of the R. McMillen Company? A. Empire City Woodworking Company, that is now the Empire City-Gerard Company; Murray & Hill, Marks & Jacobson, which is now L. Marks & Son. They are practically the trade that we had here in New York, in Manhattan.

Q10. Do you sell these concerns to-day? A. I do not.

1341

Q11. Any of them? A. No.

Q12. Have you sold all of them within the past five years? A. Yes.

Q13. Is your business with the Empire City-Gerard Company or its predecessor an established and continuous business? A. Yes.

Q14. When did you last do business with this concern? A. The last sales were made not later than January, 1910.

Q15. You have not sold them anything since that date? A. No.

1342

Q16. Have you attempted to sell them anything since that date? A. I have.

Q17. Have they given you any reasons for refusing to buy? A. Yes.

Q18. What were those reasons?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Mayer: And as hearsay.

A. Because our goods were non-union.

1343

Q19. Have you sold Murray & Hill Company at various times? A. I have.

Q20. Have you sold them anything since January, 1910? A. Nothing with the exception of some 1⅜" sash.

Q20a. When did you sell that? A. My memory would be, that during 1910 we sold them some 1⅜" sash.

Q21. Have you ever attempted to sell them anything except 1⅜" sash? A. I have.

Q22. And they have refused to buy? A. Yes.

Q23. Did they give reasons for their refusal?

1344

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay; no identification of the party.

A. Because our goods were non-union.

Q24. Who told you this? A. Mr. Alexander.

Q25. Is he connected with the Murray & Hill Company? A. He is the buyer.

Q26. About when did he tell you this? A. During 1910.

Q27. In the early part? A. Yes.

Q28. Has he told you that on more than one occasion? A. Yes.

Q29. How many times? A. I could not say.

Q30. Were all of these occasions in 1910 when he told you this? A. No.

Q31. He has told you that since 1910? A. Yes.

Q32. Has he ever told you that prior to 1910? A. No.

Q33. I will ask you whether during the year 1909-10 and 1911 you have solicited business from that concern regularly? A. Yes.

1345

Q34. And as I understand prior to 1910 did they ever refuse to buy on the ground that the merchandise was non-union? A. No.

1346

Q35. But since 1910 they have in each and every instance refused on that ground? A. They have.

Q36. Now I will ask you who it was of the Empire City-Gerard Company that gave you this reason for refusing to buy? A. Mr. O'Neill and Mr. Pero.

Q37. Is that Mr. David W. O'Neill? A. It is the president of the company. I don't know his initials.

Q38. And have you constantly solicited business from this concern prior to 1910? A. Yes.

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Q39. And subsequent to that date? A. Yes.

Q40. When did this firm first tell you that it could not buy because your goods were non-union? A. Early in 1910.

Q41. And they had never told you that prior to that date? A. No.

Q42. And they have told you that in each and every instance where you have solicited them since that date? A. Yes.

Q43. Now you stated that you had also done

business with L. Marks & Son? A. Yes. Formerly Marks & Jacobson.

Q44. Do you still do business with that concern? A. No.

Q45. When did you last do business with them? Was your business with this concern regular? A. Not as regular as it was with the Empire City Woodworking Company.

Q46. You sold them occasionally? A. Occasionally.

Q47. Have you sold them anything since Janu-
1349 ary, 1910? A. Not after the early part of 1910.

Q48. Have you solicited business since that date? A. I have.

Q49. And did they give you any reason for refusing to buy?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay.

Mr. Beattie: Same objection.

A. Because our goods were non-union.

Q50. Have you solicited business on more than one occasion since January, 1910? A. Yes; I have.

Q51. Have you had this same reason given you
1350 on other occasions? A. Yes.

Q52. On all occasions since that date? A. That was the reason given.

Q53. Had this concern ever given you that reason prior to 1910? A. No.

Q54. And were you soliciting business from them frequently prior to 1910? A. Yes.

Q55. Have you ever solicited business from the Empire Door & Trim Company? A. I have.

Q56. When did you first begin to solicit business from them? A. During 1910.

James C. Miner for Complainant—Direct. 1351

Q57. You never solicited business from them prior to 1910? A. I would not be absolutely certain whether that was started in 1910 or 1911.

Q58. You never solicited business from them prior to 1910? A. No.

Q159. Were you successful in securing any business from them?

Mr. Mayer: Objected to at incompetent, irrelevant and immaterial; hearsay.

Q60. Did your concerns give you any reasons for refusing to buy? A. Yes. 1352

Q61. What were the reasons?

Mr. Beattie: Same objection.

Mr. Mayer: Same objection.

A. That our goods were non-union.

Q62. Have you solicited business from this concern on more than one occasion? A. Yes.

Q63. With the same result? A. Yes.

Q64. Have you solicited business from the H. H. Herrman Lumber Company? A. I have.

Q65. Where do they do business? A. At 125th Street and East River. 1353

Q66. And you solicited business from this concern prior to 1910? A. I solicited business, but I did not sell them anything prior to that. Would you like to have me give you the reason why I did not sell them prior to that.

Mr. Mayer: I object as incompetent, irrelevant and immaterial; hearsay.

Q67. You say you have solicited business from them prior to 1910. Have you solicited business from them since 1910? A. I have.

1354 James C. Miner for Complainant—Direct.

Q68. Have they given you any reason since 1910 as to why they would not buy? A. Because our goods were non-union.

Mr. Mayer: I object to the question, on the ground that it is incompetent, irrelevant and immaterial, and ask that the answer be stricken out as hearsay, incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection and same motion.

1355 Q69. Have you solicited business from them on more than one occasion since 1910? A. I have.

Q70. And they have always given you this same reason? A. Yes.

Q71. I will ask you whether prior to 1910 when you state that you solicited them, whether they ever gave you this reason? A. No; they did not.

Q72. Did you state you never did any business with them prior to 1910? A. Not to my knowledge. That is, I would not be sure enough of it to state that I have.

Q73. Did they give you any reasons for not doing business with them? A. My price was too high.

1356 Q74. Well, now, taking these various concerns from whom you have solicited business or with whom you have done business, I will ask you whether, since 1910, you have submitted estimates for them, or they have called for estimates from you on material other than 1⅜" sash? A. I could not be sure on that point.

Q75. Now I will ask you whether since 1910 you have solicited business from other concerns on the Island of Manhattan that you now recall? A. No; I felt that it was useless.

1357

Mr. Mayer: I move to strike that answer out.

Mr. Beattie: Same motion.

Q76. And you have not made any general solicitation of business on the Island of Manhattan since 1910? A. Not other than the ones that I have testified to.

Q77. And it was your experience with these other concerns and the reasons they gave for not doing business with you that led you to desist?

1358

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; wholly improper.

Mr. Beattie: Same objection.

A. Yes.

Q78. Did you ever use any price list of the New England Association in making your bids for customer or in making any of your sales?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. I use the New England Manufacturer's List on part of my business in Connecticut and Massachusetts. 1359

Q79. Do you use any list of the Veneered Door Association?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

A. There is a list for the Veneered Manufacturers that I do not use; on veneered doors my company use a list of their own.

1360 James C. Miner for Complainant—Direct.

Q80. I am asking you whether you use the list of the Veneered Door Association, which is the Association referred to in Exhibit B for the defendants, on the taking of depositions in Oshkosh? A. No; I don't use that list.

Q81. You use no list of that association? A. No list of that Veneered Door Association.

Q82. Now I will ask you whether the discounts at which you sell the merchandise of the R. McMillen Company are all larger than those recommended by the Eastern Door, Sash & Blinds Manufacturers'
1361 Association?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

A. They are.

Q83. And the prices at which you sell your merchandise are therefore lower than the prices recommended by said Association? A. They are.

Q84. Does this apply to all of your sales? A. Yes.

Q85. The various price lists referred to are gross
1362 lists, are they not? A. Yes.

Q86. Is that true in all of the price lists that you refer to. A. Yes.

Q87. Do you solicit business from Louis Bossert & Son of Brooklyn? A. I do.

Q88. Albro J. Newton Company? A. I do.

Q89. Cross, Austin & Ireland Lumber Company? A. Yes.

Q90. Hardy, Voorhees & Company? A. Yes.

Q91. John S. Loomis Company? A. Yes; I do.

Q92. C. R. McCauley? A. Yes.

1363

Q93. Will you state whether or not Louis Bossert & Son is a regular customer? A. I have sold him goods every year for the last five or six years.

Q94. Could you approximate the amount of the sales per year to him? A. Our records of the sales are all at the Oshkosh office, so that it would be pretty hard for me to approximate the sales.

Q95. Mr. Bossert could do that himself, couldn't he? A. Unquestionably.

Q96. And is Cross, Austin & Ireland Lumber Company a regular customer? A. They are.

Q97. Been a customer for a number of years 1364
past? A. For the last four years.

Q98. How much of the merchandise did you sell these concerns, approximately, of 1⅜" sash? A. Oh, probably about 15%.

Q99. That is 15% of your entire sales to these concerns might be 1⅜" sash? A. Yes.

Q100. What would be the bulk of the material that you would sell them? A. Doors.

Q101. Is C. R. McCauley a regular customer? A. Yes.

Q102. How long have you sold him? A. For the last six or seven years.

Q103. And do you sell substantial quantities of 1365
merchandise to these three concerns? A. I do.

Cross-examination by Mr. Beattie—

XQ104. Did you go to the Empire City-Gerard Company, Murray & Hill or Marks & Jacobson this year to solicit any business, and when and where? A. Yes; I have called several times at Empire City-Gerard Company.

XQ105. Who did you see? A. Mr. Pero.

XQ106. Did you get the same inflexible answer as before? A. The same idea.

XQ107. No variation? A. That it was impossible to use our goods on that account.

XQ108. Do you make sash? A. Yes.

XQ109. Do you make 1⅜" sash or less? A. 1⅜" or less; yes.

XQ110. You do know the carpenters will erect 1⅜" sash and less, don't you. A. I do.

XQ111. There was no reason for the Empire City-Gerard Company, Murray & Hill or Marks &
1367 Jacobson not doing business with you for sash of that character, was there? A. We don't care to sell sash without the doors, because we cannot make the minimum carload freight with sash alone.

XQ112. Then you did not want to sell them 1⅜" or less? A. We did not care to sell 1⅜" sash unless we could get the doors with them.

XQ113. Do you want anything else besides doors with them? A. Our business is doors, sash and blinds and trim.

XQ114. How about plain flooring? You know the carpenters don't refuse to put up plain flooring, don't you? A. We don't manufacture flooring.

1368 XQ115. How about the other kinds of interior woodwork which the carpenters put up? Did you try to sell any of that? A. What are they?

XQ116. Do you make exterior window blinds? A. I do.

XQ117. Did you try to sell any of those to any of those people we have just mentioned? A. The same objection refers to blinds as to sash,—that you cannot make the minimum carload of freight with 1⅜" sash or blinds.

XQ118. I have just asked you a moment ago if

you covered anything besides sash and doors in that question and you did not recall it then. A. Refer to the record. I stated blinds. 1369

XQ119. You make machine planed timber or lumber? A. We do not.

XQ120. And as I understand it, in your visits to the Empire City Woodworking Company, Murray & Hill and Marks & Jacobson, you have not tried to sell them any 1⅜" sash or under or exterior blinds since January, 1910, knowing that there is no objection to that on the part of carpenters on the ground that it is non-union, because their own members do not make it? A. As a matter of fact, there are so few 1⅜" sash used on the Island of Manhattan that a salesman in my line of business does not expect to sell any quantity of 1⅜" sash or blinds on the Island of Manhattan. 1370

Mr. Beattie: I ask that that be stricken out as not responsive.

XQ121. Now, answer the question please. A. Yes; I have.

XQ122. What did they tell you there? A. I already testified that I sold Murray & Hill some 1⅜" sash in 1910. 1371

XQ123. Well, when you did not sell it, what did they tell you about not buying it? A. My impression is that they did not have the orders for it to buy.

XQ124. You sold this sash, then, to Murray & Hill without any orders for anything else? A. Yes.

XQ125. That affected your carloads alright? A. I shipped them in a car to Brooklyn.

XQ126. Then your evidence covers Brooklyn as

1372 well as the other boroughs here, does it? A. Simply as regards the fact that this sash that I did sell to Murray & Hill in 1910, I shipped in a car to Brooklyn, thus saving the freight on them.

XQ127. Have you solicited business in Bronx, Brooklyn, Richmond and Queens during this time, or are you confining your evidence to Manhattan so far?

Mr, Merritt: He has testified to customers he sold in Brooklyn.

1373 A. If you will allow that answer of mine, that this 1⅜" sash I did sell I shipped in a car to Brooklyn; in that way I saved the otherwise loss of freight.

XQ128. That is, it would make a difference in the filling up of a car whether you shipped it to Brooklyn or Manhattan, would it? A. Not having any orders to make New York cars, I put the 1⅜" sash in Brooklyn cars.

XQ129. And that is the best answer you can make to that? Well, has there been any increase in your business here in 1⅜" sash and exterior blinds since January, 1910? A. No.

1374 XQ130. Anybody give you any reason for not buying that since January, 1910? A. No.

XQ131. You know your field was clear to sell it? A. Yes.

XQ132. Are you salesman for any other concern than McMillen? A. Yes.

XQ133. Give us the others, please? A. The Selden Cypress Door Company, Florida; Somerset Column Company, Somerset, Pennsylvania.

XQ134. What does the Somerset Column Company make? A. Columns.

1375

XQ135. Has there been any increase in their business since January, 1910, in Manhattan? A. I only took the sale of that up this year.

XQ136. Of which; the Somerset? A. Yes.

XQ137. How about the Selden Cypress Door Company? Has there been any marked increase in your business in that since January, 1910? A. We have not sold anything in Manhattan.

XQ138. Did you sell anything in Manhattan before 1910, and where did you sell it; for the Selden Cypress Door Company? A. We sold to about the same trade that I sold McMillen's goods for, except that Selden's goods were cypress, a different class of goods.

1376

XQ139. Where did you sell one order for the Selden Cypress Door Company before January, 1910? A. Empire City Woodworking Company,——

XQ140. Oh, the same people? A. Murray & Hill.

XQ141. How about the Somerset Column Company? Has there been any increase in your business in that regard in Manhattan? A. That is a new account I took up last year.

XQ142. Have not sold anything yet? A. Not in Manhattan.

1377

XQ143. Have you in any of the other boroughs? A. I have in Brooklyn.

XQ144. How about Brooklyn as to the Selden Cypress Door Company? Have you been selling anything over there since January, 1910? A. Continuous business.

XQ145. Business is booming in Brooklyn? A. I did not say a continuous increase; I said a continuous business.

XQ146. Has it been in creased? That is what I would like to know? A. In Brooklyn?

XQ147. In Brooklyn, since January, 1910? A. Well, I would have to go over a lot of figures to state that absolutely.

XQ148. They are just doors; they do not make cypress sash? A. This market does not use cypress sash.

XQ149. Has there been a big increase in your business in Brooklyn for the McMillen Company since January, 1910? A. I should say it has aver-
1379 aged about the same.

XQ150. The same as what? A. About the same as the previous years. The Brooklyn business has averaged for 1908-9-10 about the same, according to my judgment.

XQ151. What is the average business you do over there? A. In Brooklyn?

XQ152. In Brooklyn; yes. A. I should say that it averaged from $70,000 to $80,000 a year.

XQ153. For the last seven years? A. For the last three years.

XQ154. Then it was lower when you began to act as salesman for them seven years ago? A. Yes.
1380 XQ155. It gradually increased up to three years ago, and then it has remained stationery; is that it? A. I am not prepared to give a definite statement of the comparative years.

XQ156. Approximately? A. The records as to sales, ledger accounts, sales accounts, are all at the Oshkosh office.

XQ157. Don't you keep a record of what sales you make here? A. Just in a general way.

XQ158. That is what we want. Give us a general idea. A. I stated in a general way that the

business for the last three years in Brooklyn has averaged from $70,000 to $80,000 a year.

XQ159. How about the Bronx; has there been any booming up there? A. We have never done much business in the Bronx.

XQ160. How about Queens and Richmond? A. We have not done a great deal of business in that section.

XQ161. Then there has been no falling off in the business of the McMillen Company, say during the last three years in the Bronx, Queens, Brooklyn or Richmond; is that right? A. Not a great deal. 1382

XQ162. Well, there has been none, has there, as to Brooklyn? A. I could not state absolutely.

XQ163. Well, there is no material difference, is there? A. It depends upon what you consider material.

XQ164. Well, woodworking material? A. I stated that Brooklyn business, for the last three years has, according to my opinion, averaged between $70,000 and $80,000. That is as far as I can go.

XQ165. What does it average in Richmond, what in Queens and the Bronx? A. We do very little business in Queens, Bronx and Richmond. 1383

XQ166. Give us an average of that little business you do, for the last three years?

Mr. Merritt: Is this all relating to the McMillen Company?

Mr. Beattie: Yes.

The Witness: Yes; I understand that.

A. I could not say.

XQ167. Where is Marks & Jacobson's place of business. A. Delancy and Tompkins.

XQ168. What do they do? A. They are manufacturers and dealers, in doors, sash and blinds.

XQ169. The Empire City-Gerard Company runs its own woodworking mill, as do Murray & Hill, do they not? A. They manufacture part of their stuff, part of their material.

XQ170. They make the same material that you make, don't they; sash, doors, blinds, each of them? A. No.

XQ171. Don't they? Which don't? A. Well, that is outside of my province.

1385 XQ172. Well, they only order from you when they are unable to make sufficient for their trade in their own mills, don't they? A. They have not ordered from us since early January, 1910.

XQ173. But when they did order from you, they only ordered from you when their own mills were unable to make sufficient of the material you sold them? A. I don't know what they ordered of us.

XQ174. You don't know what they ordered of you? A. I don't know whether they only ordered of us goods that they could not manufacture in their plant or not.

1386 XQ175. You know they run the same sort of a plant as you do, don't they, both of them? A. Yes; I do.

XQ176. And you know that they both became union mills about January, 1910, don't you? A. I was told so.

XQ177. Well, you believe that to be so, don't you? A. Yes.

XQ178. And yet you have kept on soliciting them to get them to buy non-union material to turn out from their union plants, haven't you? A. Yes.

Mr. Merritt: I would like to ask counsel if

it is admitted or understood that union mills are not expected to buy any non-union material.

No answer.

XQ179. Did any of these other people, when you went to sell them anything; that is, the Empire City-Gerard Co., Murray & Hill, Marks & Jacobson, say, as the Herrman Lumber Company said to you, that your prices were too high? A. No.

XQ180. Isn't the McMillen Company a company that makes superior woodwork and charges high prices for it? A. No. 1388

XQ181. Does it rank high among woodworking mills as to quality or price? A. It is as good as the others.

XQ182. You have a fixed price, don't you, for all these goods? A. No.

XQ183. You mean that you can go up there, and if they say your price is too high, that you can shave off some of it; have you that power? A. I am given a certain discretion in prices.

XQ184. What discretion have you got? A. Limited.

XQ185. Well, you say that you have a price list from the McMillen Company? Have you got a price list? Have you got it here? A. No. 1389

XQ186. You don't have a price list from them? A. I have, but I haven't it with me.

XQ187. You try to get that price list, do you, if you can? A. Our price lists are all subject to discounts.

XQ188. Well, what discounts? A. Different discounts.

XQ189. It varies on doors, sash, etc.? A. It

1390 varies on the character and desirability of the order.

XQ190. What do you mean by desirability of the order? A. Well, whether it is the class of goods we want to manufacture.

XQ191. Well, now, does these price lists and these discount lists come to you in printed shape? A. Our price lists are all printed.

XQ192. And the discounts are printed with it? A. The discounts are ordinarily filled in with pen.

XQ193. What do you do with your price list;
1391 keep it at your office? A. What price list?

XQ194. The price list you are selling under now. Where is that? Have you got it on your person? A. No.

XQ195. Where is it? A. We have got lots of those price lists.

XQ196. Well, the price list for the character of goods you were selling for these people—Empire City-Gerard Company—Murray & Hill, etc.; where is that price list, with the discounts? A. Why, that is so long ago, I suppose those old prices that we had with them have been destroyed.

XQ197. You are soliciting business now of the
1392 same sort; where is your price list, and where is your discount list? Have you got such a thing at the office or here? A. They have not given us an opportunity to figure on anything.

XQ198. Your price list is issued to you regardless of figuring, and the discounts? A. We don't turn the prices over to concerns unless they want to do business with us.

XQ199. You have a printed price list, have you not? A. Yes.

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XQ200. Where is it? A. We have them at our Oshkosh office.

XQ201. And haven't you got one here? A. Yes.

XQ202. You have got one here? A. No.

XQ203. Oh, you have not got one here? A. Not with me.

XQ204. You have one in this city? A. We have our hardwood price list in New York; yes.

XQ205. And the discount list is with it, is it? A. That is filled in later.

XQ206. How do you fill that in? A. That is filled in at the time we quote prices.

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XQ207. Well, that is the field that you have there—between what figures can you deal with a man? A. I don't believe I understand the line of questioning.

XQ208. You said you had certain discounts and they were your own, and that McMillen had a price list which was his own, and then you said further that you had certain discounts beyond this list. What is your discretion? A. Put it 3%.

XQ209. That is, you can sell a man for an additional discount of 3% in your discretion; is that it? A. Yes.

XQ210. What is the average discount? A. It de-

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pends entirely on the line of goods.

XQ211. You have got that all marked at your office, have you? A. No.

XQ212. How do you know? Suppose I want to buy a door from you now, how would you know what discount to give me? A. As a matter of fact, the majority of our Manhattan business was done by estimate on submitted lists.

XQ213. Then it was contract work? A. It was done by estimate of what the New York buyer had

1396 to buy; that was the ordinary custom in doing business on the Island of Manhattan.

XQ214. Well, then, your price list did not apply here, nor your discount list, on the Island of Manhattan? A. It sometimes did and sometimes did not.

XQ215. Well, how are you doing business now; on that basis? A. We are not doing business in Manhattan.

XQ216. Well, in Brooklyn? A. In Brooklyn, partly on estimates and partly on discounts.

1397 XQ217. Well, how do they vary? In making estimates, do you not figure on the same discount list and price list, that you are dealing with other people on? A. It is pretty complicated business and different lay-outs of doors are figured different ways, different lay-outs of sash are figured different ways, and so on through the line.

XQ218. In these variations, are you lower in prices all the way through than the Veneer Door Association's list. A. Absolutely. Wait a minute; I would not say lower in price.

XQ219. What would you care to say? A. I thought you referred to the same——

1398 XQ220. What did you refer to when Mr. Merritt asked you that question?

Mr. Merritt: I did not ask him that question. I asked him in regard to the Eastern, and he said that in regard to the Veneered, he did not use their list anyway.

XQ221. Well, answer the question now, whether you answered it before or not. What was the question?

XQ222. In these variations, are you lower in prices all the way through than the Veneer Door Association's list? A. Well, the answer that, it ought to be at the discount stated in their catalogue.

XQ223. You had better bring your price list here and your discount list, and we will see where we are at. A. If you put in your question there, the Veneered Door Association's price list at their public published discounts, then I would answer that our prices are in all cases lower than those list prices in the Veneered Door Association, at 1400 their public published discounts.

XQ224. Well, their public published discount is the prices that all the members charge, isn't it?

Mr. Merritt: I object, because it does not appear that this witness knows what every one of the members of that Association are doing.

A. I don't know.

XQ225. Is your concern a member of the Veneered Door Association? A. Yes.

XQ226. Is it your business to use the list of the Veneered Door Association and their discounts? A. No. 1401

XQ227. In figuring? A. No.

XQ228. What occasion did you have to find out that your list was lower all the way through than the other? A. Why, I have seen their list.

XQ229. When did you see it? A. I could not say just when.

XQ230. Within the last two years? A. Yes.

XQ231. Within the last year? A. Probably.

XQ232. Well, don't you know? A. I am not sure that I looked at it within the last year.

1402 James C. Miner for Complainant—Cross.

XQ233. They issue at least every year, don't they, and modify it, with additions? A. I don't know whether they change it every year or not.

XQ234. Well, do you keep informed about it, as they do change it? A. No; because we don't use it.

XQ235. Well then, do you not, as a matter of fact, know whether your prices are lower or higher than the Veneered Door Association's list? A. They are than the one I testified to previously.

XQ236. They are in the list you testified to? A. They are lower than the discounts on the list that
1403 I looke dover at the time that I made my affidavit.

XQ237. What time are you referring to? A. That was in the early part of 1911.

XQ238. You compared the lists then? A. Yes.

XQ239. You have not compared them since? A. No.

XQ240. Have you looked at this one that you are now looking at, so that you can see as to whether your prices are lower or higher all the way through on that list? A. Yes; our prices are lower than the discounts recommended from the Veneered Door Association (referring to Drafts, Exhibit B, Oshkosh depositions).

1404 XQ241. This paper that you have just testified about is not a price list, is it? A. No; it is discounts on a price list.

XQ242. Do you know what the price list is of that Association for these diffeernt matters, that this paper arranges the discounts for? A. You mean, have I seen the price list?

XQ243. Yes. A. Yes; I have seen it.

XQ244. Well, what is the price list for orders for 100 or more stock doors, crated, ten or more of a size and kind? What is the price list for that

of the Veneered Door Association? A. There is a list price per square foot for hardwood doors.

XQ245. What is the price? A. I don't know, without looking it up.

XQ246. Do you know the price list of any of these other matters here for which the discount is stated in this paper you have testified about? A. No; not without looking it up.

XQ247. It says here as to orders for 100 or more stock doors, crated, ten or more of a size and kind, discount 78%. Then it would be impossible for you to say whether your prices were lower or higher unless you had the price list to know it? A. Well, I have had the price list and compared them at different times.

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XQ248. But you are testifying to a paper here, and you don't know the price list on anything on this paper for which the discount per cent. is stated here. If you do, tell us. A. I don't now without referring to the price list, what it is, but I know what price list it refers to.

XQ249. How about the price list of the New England Manufacturers' Association? Do you remember that, your concern? A. Of the New England?

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XQ250. Yes. A. No.

XQ251. Not in that? A. No.

XQ252. What is your price list for that: 100 or more stock doors, crated, ten or more of a size and kind? A. We have a price list with the gross price per square foot, subject to discount.

XQ253. What is the price list per square foot? A. I can't tell you about that offhand.

XQ254. What discount is there from the price list? A. I can't tell that offhand, either.

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XQ255. Whatever it is, you have the liberty of making your price 3% less? A. I already testified that I had that privilege.

XQ256. As to such an order as I have stated, or any order? A. As to any business that comes up for my consideration.

XQ257. Well, you have that printed price list and your discounts here at the next hearing? A. I think I could probably get you one of the price lists.

XQ258. I would like to see how these figures do compare. How does your list compare with the

1409 Paine Lumber Company's list? A. I don't know.

XQ259. Do you know how your discounts compare with them? A. No.

XQ260. Do you know whether they followed the Veneered Door Association's list? A. No.

XQ261. You don't know whether they do or not? A. No.

XQ262. How about the Gould Company's list and discounts? A. I don't know.

XQ263. Do you know anything about them? A. I don't know anything about their sales.

XQ264. Don't you see their price lists? A. No.

XQ265. You don't see them? A. No.

1410

XQ266. Well, do you see the price lists or the discounts of the Morgan Company? A. Why, I think I have seen the Morgan price list.

XQ267. Discount list, too? A. No.

XQ268. How about the Lotham Cypress Company? Have you seen their price list or discount list? A. No.

XQ269. Curtis & Yale Company? A. No.

XQ270. W. D. Crooks & Sons? A. No.

XQ271. Bristol Door & Lumber Company? A. No.

XQ272. You have no access to any of their price lists? A. Certainly not.

XQ273. Where is the concern of C. R. McCauley? A. 5th Avenue & 18th Street, Brooklyn, New York.

XQ274. Are all these, Loomis & Co., Cross, Austin & Ireland, Hardie Voorhees, Newton and Bossert—they are all in the Borough of Brooklyn,—of which you have testified? A. Yes.

XQ275. Are all the goods you sell non-union? A. Yes.

XQ276. That is, for the Selden Cypress Door Company, and the Somerset Column Company; are 1412 both of them non-union, too? A. Yes.

XQ277. I want to examine you about this price list. I want to see how they compare with what we have in evidence.

By Mr. Mayer—

XQ278. When was the last time that you solicited any business from the Empire City-Gerard Company? A. Oh, I was over there probably two or three weeks ago.

XQ279. And whom did you see then? A. Mr. Pero.

XQ280. And how many times would you say 1413 since March, 1911, you have solicited business from the Empire City-Gerard Company? A. Oh, I drop in there once in a while.

XQ281. Let us have some approximate idea? A. Probably once a month.

XQ282. Each time you saw Mr. Pero? A. I should say so.

XQ283. And was the only answer that he gave you each time, the answer you have given in answer to Mr. Meritt's questions—that they could not

use non-union material? A. That was the idea conveyed every time.

XQ284. Is that the only idea that was conveyed to your mind? A. They never gave any reasons that I recall of any other kind.

XQ285. The R. McMillen Company is one of the complainants in this case? A. Yes.

XQ286. And the Empire City-Gerard Company is one of the defendants? A. Yes.

XQ287. And they are business competitors of yours, aren't they? No.

1415 XQ288. They don't compete? A. They sell the builder and we sell the dealer.

XQ289. Don't they compete in certain lines with you? A. I should not say that they were competitors of ours.

XQ290. Well, then, when your principal stated that they were competitors, was he saying what was not true? A. I should not say they were competitors of ours.

XQ291. They compete in certain lines with you, don't they? A. They sell the builders and we always sell only the dealer.

XQ292. Don't you agree with his statement,
1416 then, that he solicits or that he has people soliciting the same sort of business that the Empire City-Gerard Company solicit, in some respects? A. Oh, in a general way, it might be interpreted that way.

XQ293. You made an affidavit in this matter, didn't you? A. Yes.

XQ294. One of the affidavits in support of the motion for a preliminary injunction? A. I did; yes.

XQ295. And in that affidavit you charged the Empire City-Gerard Company and the other de-

fendants with combining together for the purpose of injuring your business, and that you had suffered irreparable damage thereby, didn't you? A. I would like to look at the affidavit if I can. (Witness examines affidavit.)

XQ296. That is true, isn't it? A. If——

XQ297. That requires yes or no for an answer. A. Yes.

XQ298. Then, knowing that fact, of charging them with this, and that there had been a temporary injunction granted, you still persisted in soliciting business from these people that you charged 1418 with these heinous offences? A. Yes.

XQ299. And you still expected them to do business with you; is that so? A. I had hopes.

XQ300. You still had hopes? A. Yes.

XQ301. And still you say that your best recollection is, that all they said to you when you came there was, to politely inform you that they could not use non-union material; is that so? A. They cetrainly never showed any feeling of antagonism, because I had made such an affidavit.

XQ302. It did not seem to make much difference to them, whether you made it or not, is that the idea? A. I don't think it did. 1419

XQ303. It did not seem to? A. It did not seem to disturb the friendly relations.

XQ304. But you did not sell them any goods? A. No.

XQ305. Is the same true as to Murray & Hill Company? A. Yes.

XQ306. And you made the same affidavit with respect to them, among other defendants, who you charged with this conspiracy, and still you maintain that all they said to you was, that they could not use non-union material? A. Yes.

XQ307. And you still have hopes of doing busi-

ness with them, despite the fact that you made this affidavit, and that your company was suing them, and was causing them considerable expense? A. I did.

XQ307a. And now with Marks & Jacobson, when you saw them you knew they were not defendants in this case? A. Yes.

XQ308. And still they gave you the same answer that the others did? A. Yes.

XQ309. At any of these interviews with the Empire City-Gerard Company, did you see Mr.
1421 O'Neill—I mean since March, 1911? A. No; I have never seen Mr. O'Neill since then.

By Mr. Whittaker—

XQ310. When you refer to non-union material, what do you mean? A. Material manufactured in a shop that has not been unionized under the rules of the, I believe they call it the Brotherhood.

XQ311. You mean, a shop that does not employ union labor? A. I do not.

XQ312. What is it you mean? You mean, a shop that does not employ union labor? A. No;
1422 because our shop does not show any discrimination; as I understand the matter; they employ either union or non-union labor, regardless.

Re-direct examination by Mr. Merritt—

RDQ313. You do not disclose your discounts to any of the other complainants in this action? A. No.

RDQ314. Is the matter of discounts, so far as your experience goes, between you and the other complainants, a matter of secrecy that you all keep from each other, as far as your experience goes? A. Yes.

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RDQ315. You spoke about that shipment to Brooklyn. As I understand it, you shipped this sash to Brooklyn in connection with material sent to another concern, in order to get a lower rate of freight charge in order to get the carload rate of freight? A. In order to get the carload rate of freight.

RDQ316. And part of the carload was destined for someone over in Brooklyn? A. Yes.

Mr. Beattie: My cross-examination is reserved until the witness produces that price list and discount list.

1424

Adjourned to Wednesday, December 6, 1911, 10:30 A. M.

PAINE vs. NEAL.

Hearing Wednesday, December 6th, 1911, 10:50 A. M.

APPEARANCES:

COMMISSIONER SHIELDS,

1425

WALTER GORDON MERRITT,
For Complainants,

WILLIAM P. MALONEY,
and
CHARLES MAITLAND BEATTIE,
For defendants Neal and others,

C. J. HARDY,
By F. B. Whittaker,
For Defendant James Elgar, Inc.,

EIDLITZ & HULSE,
By Mr. Mayer,
For Defendants Gethy and others,

1426

WILLIAM BUTLER,
By Mr. Mayer,
For Defendants Murray & Hill Company, James C. Forbes, Harlem River Lumber & Woodworking Company, Empire City-Gerard Company and David W. O'Neill.

Examination of James C. Miner, resumed.

By Mr. Beattie—

1427

XQ317. Have you got that list? A. I have (witness hands counsel catologue No. 27).

XQ318. Is this paper that you just showed me, the price list of the R. McMillen Company in effect now? A. It is.

XQ319. And the discounts in effect now? A. Yes.

XQ320. Was this same price list in effect throughout the present year? A. The bulk of our sales have been made at those prices this year.

XQ321. The 3% that you have the discretion in taking off, is that figured below these figures in this book that are in purple print? A. Why, there

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is no question in my mind that the home office would give me the privilege of making an additional 3% if the character of the order was such that we wanted the business and found that we had to make it to secure it.

Mr. Beattie: I ask that that be stricken out as not responsive.

XQ322. The 3% that you previously testified you had a discretion about, is not shown on this book you have handed me, is it? A. No.

XQ323. Will you please point out in what respects your price list that you have just handed to

me differs from the price list of the Veneered Door Association which is now the present price list of the Veneered Door Association? A. I cannot do it; I have not got their list here. You have that list, haven't you?

XQ324. Are you sure that there is any material difference in the two price lists, of the Veneered Door Association and this one? A. There is a difference in the gross price per square foot.

XQ325. Is not that adjusted by the discounts, so that your prices and the Veneered Door prices are about the same? A. Our discounts, as you will see, 1430
now, they are 80% and 78%, and my recollection is that the Veneered Door Association discounts are 80% and 78%, but their gross price per square foot, to the best of my memory, is higher.

XQ326. How much higher does it average? A. I could not say, you can figure that out from the two lists. I have submitted our list here now, and you can compare it with the other.

XQ327. Well, you have already testified that your list is lower. I would like to know about what average per cent. lower you think it is. A. I could not say how much lower.

XQ328. You could not give us within any spe- 1431
cial figures,—as to 5%, or 10%, or between? A. I think it varies on different items. It is simply a question of comparing the two lists.

XQ329. Are some of the prices that you charge higher on some items? A. I would not be absolutely positive that there might not be an instance occasionally. Our specialties on that list, that is, the woods that we make a specialty of, are, unselected birch, selected plain red oak, brown ash, white pine, quartered white oak. Those are woods that we specialize on. There are a lot of items in the list there that we are never called on to figure on, and the market do not use them.

1432 James C. Miner for Complainant—Cross.

XQ330. Does the Veneered Door Association specialize also on those character of doors that you have just described? A. Why, our list covers a lot of woods there that we are never called upon to furnish, and I presume it is reasonable to suppose that the other list does.

By Mr. Merritt—

Q331. In regard to these things which you specialize in, or which you name are specialties, are your net prices lower than the net public prices of the association? A. As I figured them over the
1433 early part of January, they were, that is, to the best of my recollection, in all cases on those woods that we specialize on.

Q332. Is that practically all of your business here? A. That was the bulk of our business in those woods.

By Mr. Beattie—

XQ333. You do not mean to state positively that your price lists are any lower as to those specialized sort of doors you speak of? A. On the woods that I mentioned above, at the discounts in our catalogue as compared with the price list and discounts
1434 of the Veneered Door Association, I will state that I figured this out early in 1911, at which time I made an affidavit, and at that time I found that our prices on these special woods were in all cases lower.

XQ334. How much lower? A. I don't recollect the percentage.

XQ335. What affidavit do you refer to? A. It is on the records.

XQ336. In this case? A. In this case.

Mr. Merritt: He refers to the affidavit on the preliminary injunction.

XQ337. That affidavit did not refer to the dif-

ference in prices? A. There was an affidavit made in regard to the fact that we did not use the Veneered Door Manufacturers' list. I do not recall now whether it referred to prices or not, but I know that I figured the thing out at that time. 1435

XQ338. Do you know how it comes that you gave the discount of 80%, carload lot 80%, less carload lots 78% discount? How do you figure that 80% and 78%. A. That is off the square foot price on page 8.

XQ339. When is it 80%, and when 78%? A. When you get a carload order. 1436

XQ340. Do you mean that you take off 80% and then 78% off that? A. On, no. For a carload you take 80%, less than carload orders you figure them at 78%. That is about 10% higher.

XQ341. And those are the same discounts as the Veneered Door Association gives for carload lots and less? A. It happens to be.

XQ342. Do you know what the Veneered Door Association's discount is for plain red oak, your discount being 71%? A. Their price list on that particular door that is covered by that discount of 71%, is entirely different from ours.

XQ343. What is it? A. That is our stock door. 1437 That is a door that we specialize on. A 5 cross panel, also a one-panel; also 2-panel door, made in plain oak, and unselected birch, with what we term solid sticking.

XQ344. Well, don't the Veneered Door Association handle the same door? A. They no doubt make the same door occasionally.

XQ345. With the same sticking and all? A. They no doubt do.

XQ346. Don't you know what their discount is on it? A. My impression is——

XQ347. Do you know? A. No.

XQ348. Do you know what their discount is on

1438 unselected birch, yours being 78%? A. No. But I would like to remark here that these two discounts——

XQ349. Don't, please——

Mr. Merritt: I think it would be well to allow the witness to explain.

A. It is a complicated proposition, that is all. I am trying to clear the situation up on that list.

XQ350. Are you a member of the Eastern Door Association, too? A. The McMillen people, are,

1439 yes.

XQ351. Have you got their list with you? A. No.

XQ352. The Eastern Door Association covers New York too, doesn't it? A. The price list of the Eastern Door, Sash and Blind Manufacturers' Association is used in New York.

XQ353. And it is used by you? A. That covers white pine, sash and solid doors.

XQ354. You use that price list? A. Yes, we use that price list.

XQ355. And their discount list? A. Please

1440 make that question a little clearer.

XQ356. And you use their discount list? A. Why, we sell in all cases at a higher discount than published in their printed list of discounts.

XQ357. That is, you sell cheaper? A. Yes, a higher discount on the gross list is a lower price.

XQ358. Do the other members of the Association do the same thing? A. I don't know what they do.

By Mr. Maloney——

XQ359. Is the discount price referred to in those Eastern Door lists the minimum discount fixed? A. I don't know.

1441

XQ360. Is it the maximum? A. Why, my idea of it is, it is simply prices, as you might say, that were recommended to insure a manufacturer a living profit, something of that kind. We certainly have never been able to secure any such prices as are printed in those circulars. We would like to.

XQ361. Where do these percentages that are stamped in this catalogue of the McMillen Company (Ex. 9) come from?

Mr. Merritt: I am going to ask to have that marked for identification, so that we can know what we are referring to. 1442

Marked Comp. Ex. 10 for Id., being the catalogue of the R. McMillen Co., #27, for veneered doors concerning which the witness has been examined.

A. I get the information in regard to what discounts to use from my Oshkosh office.

XQ362. Are these stamped percentages stamped in by you? A. Oh, yes.

XQ363. From the prices which are furnished by the main office? A. From my information which I receive from the main office, yes. 1443

XQ364. The printed part on the opposite page, those are taken from the Eastern Door price list, aren't they (referring to page 3)? A. The list prices on page 3 covering our Max Royal #150 door, up to doors 7 feet high, are the same as the price list of the Eastern Door, Sash and Blind Manufacturers list, for a five cross panel, flat panel O. G. door. A door 7 foot 6 inches and eight feet, the list price is 10% higher.

XQ365. That is because they are special sizes, is

1444 that right? A. No, I believe the idea was, that such price in the Eastern Association was for a solid door, whereas this is a veneered door, that the McMillen people did not feel that it was uniform, so that when they came to the 7 foot six and eight foot, they added 10% to the price list.

Mr. Merritt—

Q366. When you say those prices are higher, are those net or gross prices? A. Those are gross prices. List means gross.

1445

By Mr. Maloney—

XQ367. When you speak of gross prices, they are also subject to the discounts set forth in the list of discounts in the Eastern Door and Sash list, precisely the same as the gross prices are? On our catalogue #27, our discounts are as printed with the typewriter on birch and oak, referring to the price list on page 2.

XQ368. Are there no other discounts than these discounts which are typewritten in on page 2? A. For other classes of goods, yes.

1446 XQ369. I mean, none for those referred to on page 3? A. No.

XQ370. None whatever? A. I want to get a clearer idea of what you mean. You mean, there is no other discount?

XQ371. Discount percentages on the list of goods referred to on page 3 of this Exhibit 9 for Identification? A. Why, I have already testified that the bulk of our business was done at these discounts, on that particular kind of door.

XQ372. Are there any other discounts than those

that are written on page 2—any other discount percentages? A. Do you mean, would we make any higher discount, is that the idea? 1447

XQ373. I don't mean what you might do in a special case, I mean, what do you really do with regard to these prices that are set forth on page 3? Are they always discounted at the prices set forth on page 2, or do you ever use any other discount percentages? If so, what are they? A. I have already testified that the bulk of our business this year was done at those discounts.

XQ374. How about the business other than the bulk? A. I could not testify as to the volume of that, that is, to separate it into certain proportions. 1448

XQ375. Do you fix the percentage of the discounts, in all cases, where there is a different percentage discount than the one typewritten on page 2? A. I do not.

XQ376. You receive these instructions from the main office for such other discounts? A. I do.

XQ377. How would those be indicated—by correspondence? A. They probably would.

XQ378. Or do they refer you to printed list prices and printed list discounts? A. They never refer me to any printed list discounts, because we do not have any. 1449

XQ379. Don't you, in the Eastern Door & Sash, have printed different percentages? A. The Eastern Door, Sash and Blind Association have a list of printed discounts that have already been referred to.

XQ380. Does your company ever refer to that list in fixing the discount percentages other than these typewriten ones on page 2? A. They do not.

1450 James C. Miner for Complainant—Cross.

By Mr. Beattie—

XQ381. In giving us the reasons, as you consider them, for not being able to do business in this city, didn't you omit to state that the large builders of this city had agreed not to buy non-union material?

Mr. Merritt: The witness has not testified as to his reasons for not being able to get business. He has simply testified as to facts, as to what customers told him as their rea-
1451 sons for not doing business. If counsel is going to ask this witness to speculate as to just what conditions in New York City prevent him from getting business, I shall insist on going into that question with the witness.

A. The record will show whether I testified on that or not.

XQ382. Didn't these different people that you have tried to do business with, tell you that the large builders in this city had agreed together not to buy non-union material.? A. Why, I had been told that there was some such agreement.

1452 XQ383. Well, you did not try to do business with any of these parties to that agreement, did you?

Mr. Merritt: I would like to ask counsel if it is admitted that the large builders in the city have agreed not to buy non-union material.

No answer.

A. We never sell the builders. I have testified to that before.

XQ384. Well, you also know that the Manufac-

1453

turing Wood Workers had made an agreement not to buy non-union material? A. Yes.

XQ385. And all you sell is non-union material? A. Yes.

XQ386. And yet you have kept going to those people trying to sell them goods just the same, since you learned about their agreement? A. I called frequently, and in some cases telephoned, to see whether the situation had changed so that they could use our goods.

XQ387. But you knew they had agreed among themselves not to buy non-union material? A. Yes.

1454

XQ388. And your only chance of doing business with them would be, if they had made another agreement? A. If the circumstances had changed so that they could handle our goods.

By Mr. Maloney—

XQ388a. From reading over your testimony, Mr. Miner, I understand that you went about to these different companies that you have mentioned, to solicit their business? A. I did.

XQ389. For the purchase of material? A. Yes.

XQ390. Which you have described? A. Yes.

1455

XQ391. And in no case can I find any reference made by you to the party with whom you talked.

Mr. Mayer: He did.

XQ392. I am mistaken about that? A. Yes.

XQ393. What party did you see? The name of each individual you saw? A. At the Empire City-Gerard Company I used to talk with Mr. Pero. At the H. H. Herrman Lumber Company I used to see Mr. Mittleman, and at L. Marks & Sons I used to

talk with Mr. Marks, Jr., and in the case of Murray & Hill, for the last year I have not been going up there; I had called Mr. Alexander up on the 'phone once in a while, to see whether the situation had changed any, so that they could handle our goods or give us a chance to figure on their work.

XQ394. Well, then, these are the people you saw: Pero, Mittleman, Marks, Jr. and Alexander? A. Yes. I talked with Alexander on the 'phone.

XQ395. You saw them all except in Alexander's case, and in that case you telephoned? A. Yes.

1457 XQ396. Are these the only persons that you did see or talk with? A. No. I have talked with Mr. Biggart, of the Empire Door & Trim Company.

XQ397. Any others? A. No, I don't recollect talking with any of the other buyers.

XQ398. What position does Mr. Pero have with the Empire City-Gerard Company? A. He is the buyer. Oh, just a minute——

XQ399. You mean, he is one of the men there who buys? A. Yes, Pero is the buyer.

XQ400. Is there any other buyer there? A. Well, Murrill, when we used to do a great deal of business with them, was the buyer; he was the buyer
1458 until he was taken sick and left; that was, as I recollect it, the early part of 1910; after that, Mr. Pero took his position.

XQ401. Did you know Pero before this early part of 1910? A. Yes.

XQ402. He had been employed in a different department there? A. Yes.

XQ403. You had never sold any goods through him before, had you? In fact, you never sold any goods through Pero, did you? A. Oh, I think—well, I could not testify absolutely to that, because

1459

the period at which Mr. Murrill left and Mr. Pero took charge, as near as I can recollect, was in the early part of 1910.

XQ404. You did not sell anything after the early part of 1910? A. No.

XQ405. Therefore, you never sold anything at any time to the Empire City-Gerard Company through Pero, to the best of your recollection? A. I would not be positive on that.

XQ406. What is your best recollection on it? Can't you recall personally what you did with Pero? A. I have our record at Oshkosh, and prob- 1460
ably their records here will show that there were some orders sent in after Mr. Murrill left.

XQ407. How about your personal transactions with Pero? Did you ever sell anything to them through Pero? A. I am not positive about that.

XQ408. What is the best of your recollection? A. That there were a few orders.

XQ409. Taken by you personally from Pero? A. Why, our business with the Empire City-Gerard Company had been for several years a continuous business on certain lines, and sometimes the orders were sent in direct to the factory and sometimes I took them and sent them in. It is 1461
some time ago, and I can't be absolutely positive whether I handled any orders personally or not.

XQ410. You are called here as a witness to testify to facts within your personal knowledge, not as to facts you may surmise? A. Yes.

XQ411. Can you recall any single instance of when you personally solicited and received from the Empire City-Gerard Company, an order for goods from Mr. Pero—giving time and place approximately? A. No, I could not.

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XQ412. How about Mr. Mittleman—what position did he occupy with the Herrman Lumber Company? A. He was the buyer.

XQ413. Did they have any other buyer there? A. Not since I have been calling on them.

XQ414. Have your dealings always been with Mittleman? A. Yes.

XQ415. Over what period do they extend? A. Why, probably three or four years.

XQ416. Mittleman is an employee of the company, isn't he? A. He is the buyer, yes.

1463

XQ417. Does he come to your office here at times, or has he in the past, and bought goods? A. I call at their office.

XQ418. He has never called on you? A. No.

XQ419. Have you ever seen anyone other than Mittleman there when you called, when you received an order? A. I testified before that while we had figured with the Herrman Lumber Company, we never secured any business from them.

XQ420. At any time? A. No.

XQ421. How about Marks, Jr.? Is he a member of the firm of L. Marks & Son? A. Yes.

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XQ422. And all your personal dealings were with Marks, Jr.? A. Yes.

XQ423. How long a period do they cover? A. Three or four years.

XQ424. Did you ever personally receive an order from Marks, Jr., for your material? A. Yes.

XQ425. When was the last one that you recall? A. The early part of 1910.

XQ426. How long after that was it that you saw Marks, and he said that they would not buy any more, because your material was non-union? A. Oh, I called there frequently.

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XQ427. Give any further explanation than the expression "non-union"? A. Why, I don't want to imply that in each and every case a stereotyped expression, non-union, was used, but the fact was so well understood, that they could not handle non-union goods, that I simply called around to see whether the situation had changed, so that they could handle our goods.

XQ428. When you solicited these orders, you were under the impression that they would not purchase non-union goods, is that the idea? A. That is the impression I had.

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XQ429. And when you received no orders, or he told you that they would not give any orders, your understanding was, because it was non-union material? A. Yes, that it was non-union material.

XQ430. What language did he use, if any, which at any time conveyed to you that impression? A. Why, as to the actual language, I could not testify absolutely, but the idea that I got from our conversations was, as I have already testified several times.

XQ431. With Marks? A. With Marks, yes.

XQ432. Can you not recall the substance of the conversations? A. The actual working, no.

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XQ433. The substance of it? A. The substance of it was, that they had to furnish union goods, our goods being non-union they could not handle our goods.

XQ434. That Marks and Sons had to furnish union goods to their customers? A. Yes, that was——

XQ435. You say they were under contract to do that? A. I don't say they were under contract, but that was the idea.

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XQ436. Did he say to you that they were under contract? Did you get that impression from him, too? A. Not necessarily a contract, I don't know that the word contract applies.

XQ437. You got the impression that they could not deal with their customers unless they furnished to their customers union goods, that their customers demanded union goods, and they had to supply them union goods, is that right? A. Yes.

XQ438. Is that the impression you got from the conversations? A. Yes.

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XQ439. How about Alexander? Did he ever say over the telephone to you that he could not buy your goods because your goods were non-union? A. I would not say that he used that stereotyped term, over the telphone.

XQ440. What did he say in substance from which you drew that inference? A. I would call up to see whether the situation had changed any.

XQ441. Did you call his attention to what you supposed was the situation, or believed was the situation? A. Possibly not in just so many words.

XQ442. I mean in substance, did you ask him if he was now where he could buy your material, non-

1470

union material? A. Yes, that was practically the way.

XQ443. What was his answer in substance? A. No.

XQ444. There was no conversation, then, coming from him which in substance said that they would not buy material because it was non-union material? A. Not after the fall of 1910.

XQ445. Was there anything prior to that, with Alexander, over the telephone? A. No, but I had talked the matter over with——

1471

XQ446. Never mind that. I am concerning myself with Alexander now. You had no conversations at all with him, except over the telephone? A. After the fall of 1910, no.

XQ447. Did you have conversations personally before that? A. Yes.

XQ448. When you were selling goods? A. When I was soliciting orders.

XQ449. Did you sell goods after that time? A. Not after the early part of 1910, except as I have already testified——

XQ450. Let me get my questions first?

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Mr. Merritt: I insist on the witness having an opportunity to finish that answer, because it is a part of his answer which is already on the record and will not be truthful unless finished.

Mr. Maloney: The witness may say anything he pleases, but he will please confine himself to answering my questions, first. I will be glad to have his explanations.

XQ451. I understand there were two periods—the one when you were soliciting orders and receiving them, and one where you were soliciting them and not receiving them? A. Yes.

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XQ452. When you were soliciting and receiving them, you saw Mr. Alexander at times personally, is that correct? A. Yes.

XQ453. When you ceased to receive orders from that company, you solicited them over the telephone with Mr. Alexander, but did not see him personally; is that correct? A. No. There were two occasions at least that I recall that I talked with Mr. Alexander after the——

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XQ454. When you did not receive any orders? A. After the early part of 1910, that I did not receive any orders.

XQ454a. At those conversations which you had with Mr. Alexander, what did he say in substance from which you drew the inference that he would not buy non-union material? A. The same general idea, that they could not handle non-union goods.

XQ455. Did he say to you, that they could not handle non-union goods, or did he tell you that his customers wanted union goods? A. Well, the

1475 distinction is so slight that I would not be sure as to the exact framing of the answer.

XQ456. Can you recall the substance of what he said, that we may know whether you received the correct impression or not? A. Why, I realized that, or at least understood, that both conditions existed, that they could not handle non-union goods, and the probabilities were that the contractor would have difficulty in putting up non-union goods on the Island of Manhattan.

XQ457. Now you have given us your own understanding of the conversation, but you see that that leaves us in the dark as to what the correct under-

1476 standing ought to be. Can't you tell us the substance of what he said and what you said? A. No.

XQ458. You cannot? A. No.

XQ459. At times you shipped some of these goods to Brooklyn that were destined for Manhattan Island? A. I shipped some sash to Murray & Hill in a car to Brooklyn, some 1⅜" sash, in 1910, after they stopped buying any doors of us.

XQ460. And what was the reason for that? A. Why, we did not have any cars coming to Manhattan and we did have cars coming to Brooklyn, so

I put this sash for Murray & Hill in a car to Brooklyn.

XQ461. That was before they ceased to deal with you? A. That was after they stopped buying doors of us.

XQ462. Did you send them to Brooklyn to cover up or conceal the fact that they were non-union made or that they might have trouble with them on that account? A. Not at all. They were 1⅜" and you can sell this in New York.

XQ463. Then this sash that you sent to them has nothing to do with this case at all? A. No. Only 1478
I want to be clear on the testimony, because I have already testified that we furnished them 1⅜" sash.

Mr. Mayer: That is all.
Mr. Maloney: That is all.

Re-direct examination by Mr. Merritt—

RDQ464. Prior to 1910, did you receive lists for estimates from the Empire City people? A. Yes.

RDQ465. Is that one of the customary ways of doing business? A. On a good deal of the door work they used to send us a list for estimate.

RDQ466. And did you receive lists from time to 1479
time from these various concerns concerning whom you have testified? A. Yes.

RDQ467. I will ask you whether, after January, 1910, you received such lists? A. No, they stopped sending us lists for estimate.

RDQ468. Do you do a substantial business in New Jersey neighboring to New York? A. Yes, we do considerable business in northern New Jersey.

RDQ469. How much would it amount to in

1480 round numbers? Would it equal $10,000.? A. Yes, I should say it would; that is a year, $10,000. a year.

RDQ470. Do the goods sold to the Iroquois Door Co. go through your office? A. No, the Oshkosh office.

RDQ471. Even those sold to the New York office of the Iroquois Door Co.? A. Yes, that all comes through the Oshkosh office.

RDQ472. Now you just told counsel that you could not testify as to the substance of conversa-
1481 tions you had with one of these customers you were soliciting. I want to ask you whether the impressions which you got were simply your own preconceived impressions, or were they drawn from the conversations which that customer entered into?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay; wholly improper.

A. No, they were impressions I received from conversation.

RDQ473. That is, from the conversation of that
1482 person? A. Yes.

RDQ474. Well, then, do you mean to testify that you cannot give even the substance of the conversation which gave you that impression? We do not mean the exact wording of it, but the substance of it? A. Why, I have testified early in the case that in 1910 I talked with these various parties, and naturally, when we had been doing business right along, at least, were receiving lists to estimate right along, I called to inquire about new business, and they all told me that they could not handle our

1483

goods any more, because the goods were non-union; of course, in the case of the Empire City-Gerard Company and Murray & Hill, they had unionized and could not handle our goods. After that, it was not necessary to go into the detail every time, it was simply a case to see whether the situation had changed, so that they could do business with us or give us a chance to estimate on their goods.

RDQ475. Then at some time during the period following January, 1910, everyone of these men have said to you in substance or effect that they could not handle the goods because they were non-union? A. Oh, yes.

1484

RDQ476. You cannot give the conversation, I suppose, which took place each time? A. Oh, no.

RDQ477. Nor even the substance of it? A. No.

Mr. Merritt: I now offer Comp. Ex. 10 for Iden. in evidence.

Subscribed and sworn to before me)
this day of , 1911.)

1485

ARCHIBALD T. MACKENZIE, a witness called on behalf of Complainants, being duly sworn, deposes and says:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Archibald T. Mackenzie.

Q2. What is your age? A. Forty-six.

Q3. Your business? A. Secretary, Van Nest Woodworking Company.

Q4. And what is the business of that concern? A. Manufacturing sash, blinds and doors.

Q5. How long has it been engaged in that business? A. Six years.

Q6. How long have you been secretary? A. Since its existence.

Q7. And where is that business located? A. East 180th Street and Van Nest Avenue, New York City.

Q8. And how long has it been located there? A. Six years.

1487 Q9. How many hands do you employ? A. About 75.

Q10. Aren't you also connected with the Westchester Woodworking Company succeeding the Van Nest, after the place was destroyed by fire? A. Yes, sir; Westchester Woodworking Company.

Q11. Then the Van Nest no longer exists by name? A. Yes, it exists by name.

Q12. Well, what is the situation? Are both concerns going on? A. The Van Nest Company went out of business after the fire and was succeeded by the Westchester Woodworking Company.

Q13. And the Van Nest Woodworking Company
1488 is no longer active in business? A. No.

Q14. When did this change take place? When was the fire? A. September 12, 1910, I think.

Q15. And you have been Secretary and Treasurer of both companies during their entire existence? A. Yes, sir.

Q16. And they have had their principal place of business in New York City during their entire existence? A. Yes, sir.

Q17. Is the company a corporation? A. Yes, sir.

Q18. Both of them? A. Yes, sir.

1489

Q19. You manuf[illegible] sash, doors, blinds, etc.? A. Yes, sir.

Q20. To whom [illegible]u sell your merchandise? A. All over the City of New York.

Q21. To builders? A. Yes, sir.

Q22. You have formerly done business with Morgan Company, have you not? A. Yes, sir.

Q23. Purchased doors? A. Purchased all our veneered doors off them.

Q24. Doors only you purchased from them? A. No, we purchased sash and some blinds, but principally doors.

1490

Q25. Do you purchase any 1⅜" sash? A. Yes.

Q26. Do you still do business with the Morgan Company? A. No, sir.

Q27. During what period did you do business with them? A. The early part of 1910 and previous to that.

Q28. For how long have you done business with them? A. For a couple of years.

Q29. Do you recall when you stopped doing business with them? A. Right after we had a strike at the place.

Q30. Do you recall the date of that? A. Some time in the middle of the summer, as near as I can remember, about July, 1910, I guess.

1491

Q31. I show you a letter purporting to be signed by you and ask you if you wrote that letter? A. Yes, I had that letter dictated.

Q32. And did you cause it to be mailed to the Morgan Door Company? A. Yes, sir.

Mr. Merritt: I will offer that letter in evidence as Comp. Ex. 11.

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

1492 Archibald T. Mackenzie for Complainant—Direct.

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay; not proper proof and not properly identified.

EXHIBIT 11.

"Warehouse, 71 Van Nest Avenue
Lumber Yard, Cor. Adams Street and Van Nest Avenue
A. Cruickshank, President
George Mackenzie, Vice-President
A. T. Mackenzie, Secretary and Treasurer.

1493 VAN NEST WOODWORKING CO.
Manufacturers of
Sash, Blinds, Doors, Trim, Mouldings, Etc.
Office, Factory and Lumber Yard
180th Street, Walker & Van Nest Aves. & Adams Street
Telephone, 3561 Tremont,
Van Nest, Bronx Borough, N. Y.
New York

Aug. 17, 1910.

Morgan Door Co.
Oshkosh, Wisc.

1494 Gentlemen:

The United Brotherhood of Carpenters and Joiners of America, called our men out on strike on account of using your doors. They have advised us that they will not allow any of their men to work in our shop if we handle any more non-union material. In order to re-open our factory and go on with our work, we had to agree to forfeit $1500.00 to them if any non-union material is used. This, of course, means that we cannot purchase any more doors from

you unless you unionize your shop and thus make union doors. They have allowed us, however, to take in the car of closet fronts and car of doors which were ordered prior to March 14th and we would ask that you get them all here inside of thirty days as our agreement is only continued for this length of time, or in other words, we are on trial for this short period and if not carried out to their satisfaction, they will not renew the agreement with us and refuse to allow any of our material to be put up. They also informed us that they would refuse to put up any of your material, so if you care anything for this market you had better unionize your shop.

1495 1496

Very truly yours,

VAN NEST WOODWORKING CO.
A. T. MACKENZIE
SECY

ATM/M"

Q33. Are the facts stated in that letter, true?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, not properly proving the truth or falsity of the statements contained in the letter.

1497

Mr. Beattie: Same objection.

A. Yes, that is true.

Q34. Did you write this letter on the date which it bears, August 17, 1910? A. Yes, sir.

Q35. Have you given any further orders to the Morgan Co. since that date? A. No, sir.

Q36. Did you have any conversations with any-

1498 Archibald T. Mackenzie for Complainant—Direct.

one representing himself to come from the Carpenters' Union concerning this matter?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. Yes, sir.

Q37. Whom did you see? A. Two or three officials.

Q38. Do you recall their names? A. Rice was one of them, I can't just recall the other one; Cook, I think, somebody by the name of Cook.

1499 Q39. I show you an agreement dated August 16, 1910, and I will ask you if you signed that agreement? A. Yes, sir.

Q40. I ask you if you say the other parties sign the agreement? A. Yes, sir.

Q41. Is this the agreement referred to in your letter of August 17, to the Morgan Company (Ex. 11)? A. Yes, sir.

Q42. Was the Mr. Rice and the Mr. Cook whom you saw, the same persons who signed this agreement? A. Yes, sir.

Mr. Merritt: I will offer this agreement in

1500 evidence as Comp. Ex. 12.

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

EXHIBIT 12.

"CONTRACT.

This contract entered into on the 16th day of August, 1910, between VAN NEST WOODWORKING COMPANY, party of the first part, and UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMER-

ICA, General Offices at Indianapolis, Indiana, and its subordinate body, JOINT DISTRICT COUNCIL OF NEW YORK, of the second part. 1501

The party of the first part hereby agrees for a period of thirty days from the above date to manufacture all building material or purchase same from factories employing members of the parties of the second part, and further agree to comply with such laws and regulations as embodied in agreement with Manufacturers Woodworkers' Association hereto attached, which it is provided for the employing mill-owners to follow in said agreement; and the parties of the second part agree to furnish, on reasonable notice, to the party of the first part, competent carpenters who will work upon said material at union rates of wages. 1502

If the party of the first part can show acknowledgements of orders given by it prior to March 14th, 1910, for one car load of base, one car load of dresser fronts, and one car load of Morgan doors, they shall be excepted from the provisions of this agreement; otherwise they shall not be exempted. 1503

In case of the breach of the terms, or any of the terms, of this agreement, by the party of the first part, then the party of the first part forfeits and agrees to pay as liquidated damages to the parties of the second part the sum of Fifteen hundred dollars.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its proper officer and its corporate seal to be affixed, and the parties of the sec-

1504 Archibald T. Mackenzie for Complainant—Direct.

ond part have caused these presents to be signed by their proper officer empowered to execute the same.

Witness:

Van Nest Wood Working Co.
A. Cruickshank
Pres.
A. T. Mackenzie,
Secy & Treas.
(SEAL)

1505 HARRY L. COOK
General Organizer
United Brotherhood
Carpenters & Joiners
of America

JOHN RICE
Gen. Organizer
United Brotherhood
of Carpenters & Joiners
of America."

Q43. When were you first advised that there was any objection to your making purchases of Mor-
1506 gan Co.? A. We were running an open shop; the delegates came around and told us if we did not join the union, why it would be bad for us, they would strike our jobs.

Mr. Beattie: I move to strike out the answer as incompetent, irrelevant and immaterial and not responsive.

Q44. When was this? A. About six or eight months before that agreement there (Ex. 12) was signed.

1507

Q45. Who told you this? A. The delegates of the Carpenters' Union.

Q46. Do you remember their names? A. I remember one of them, by the name of Bausher.

Q47. Would you know his first name if you heard it? A. I don't know his first name now.

Q48. Would you know it if you heard it, do you think? A. I think so.

Q49. Charles H. Bausher? A. Yes, I think that is the name. He had another gentleman with him, some organizer for the union was with him. Two of them came every time.

1508

Q50. Did they state that they represented the United Brotherhood of Carpenters? A. Yes, sir.

Q51. Did Bausher state that the man with him was an organizer? A. Yes.

Q52. Can you give us all of the conversation which you recall at that time? A. That is so long ago now. They were in several times. We put them off; told them we would think about it. At last we thought the best thing to do was to let them organize the shop.

Q53. This was the same two men always? A. Yes.

Q54. And did these visits extend over a considerable period of time? A. Three or four weeks.

1509

Q55. About when was it you agreed to organize the shop? A. About six months before that agreement there. We were in the union about six months when they struck the place.

Q58. Had you a written agreement? A. First off? Yes, sir.

Q57. Have you got that agreement? A. No, they took it away at the time this strike was on, when we went down to settle it.

1510 Archibald T. Mackenzie for Complainant—Direct.

Q58. Did you have any conversation with any delegates between the time that you signed the first agreement to organize your mill and the time when this trouble arose concerning this later agreement? A. Yes, sir. Mr. Rice came up there and saw us getting some of the non-union stuff in and wanted me to go down to where they met and I would not do it.

Q59. About when was that? A. About a week or two before that agreement was signed.

Q60. Some time about the first of August? A.
1511 Yes.

Q61. And did he mention any names of concerns who were furnishing the non-union material?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. Morgan was one of the names mentioned. He said we were getting some doors in from Morgan Company.

Q62. And he asked you to come down and meet the union headquarters? A. Yes, sir.

Q63. Did you go? A. No, sir; I did not.

Q63a. Did you tell him you would not go? A.
1512 Yes.

Q64. What did he state to you? A. I don't just remember exactly what he said. I refused to go down there and a day or two after that all the men were pulled out.

Mr. Beattie: I move to strike it out as incompetent, irrelevant and immaterial.

Mr. Mayer: Same motion.

Q65. Were you present at the mill when the men left? A. Yes, sir.

Q66. Did you see anyone call them out? A. Yes. The delegate came in and called them out.

Q67. Who? A. A man by the name of Donovan.

Q68. You saw him come in? A. Yes, sir.

Q69. How do you know his name? A. He used to work for us.

Q70. Was it John T. Donovan? A. Yes.

Q71. Did you have any conversation with him at that time? A. No, I did not say anything to him. He pulled the men out. I knew what it was being done for and I had nothing to say to him at that time.

Q72. What did you see him do? A. He simply came in the place and talked to several of the men and they all quit work.

Q73. Did you hear him say anything to the men? A. No.

Q74. You just saw him conversing with some of them? A. That morning before the men went to work he came there and ordered them not to go to work.

Q75. You did not hear him say that? A. No, sir.

Q76. You saw him talking to the men? A. Yes, sir.

Q77. And how long after you saw him talking to the men did the men quit work? A. We were idle three or four days.

Q78. How long after you saw him talking to the men, did the men quit work? A. They did not go to work at all that morning; he stopped them from going to work.

Q80. What time does your mill open? A. Half past seven.

Q81. What time was it about, that you saw

Donovan talking to them? A. Just a little before they went to work.

Q82. A little before half past seven? A. Yes, sir.

Q83. And did he come in the mill, or was it outside? A. He was in the mill talking to some of them while they were getting their clothes on, getting up their tools.

Q84. Did you have any conversation with any of the men as they quit work? A. No, sir.

Q85. Did any of them tell you why they quit
1517 work? A. I asked some of them, and they said they were called out on account of using non-union stuff.

Mr. Mayer: I move to strike that out as incompetent, irrelevant and immaterial; hearsay; wholly improper.

Mr. Beattie: Same motion.

Q86. How much of the material purchased from the Morgan Company did you have on hand at that time? A. $5,000 or $10,000 worth of stuff.

Q87. Was it all doors? A. Yes, sir.

Q88. Were the men in your mill called upon to
1518 work on those doors? A. No, sir.

Q89. Did you have any material from the Morgan Co. at the time which the men were required to work upon? A. No, sir.

Q90. Did you have any other non-union material there at that time? A. Yes, sir.

Q91. Did that come from any of the plaintiffs in this action? A. I don't know who they are. (Counsel shows witness list of plaintiffs.) Yes, sir. I think one, from the Bristol Door & Lumber Company.

1519

Q92. You think you had something on hand from the Bristol Door & Lumber Co.? A. Yes, a carload of base and mouldings from them.

Q93. Were any of your men called upon to work on that material at that time? A. No, I don't think so.

Q94. How many men left the work that morning? A. All of them.

Q95. Is that about seventy? A. Yes, sir.

Q96. What happened next in this connection? A. I had to go down to the union to see if I could fix it up and get them back to work.

1520

Q97. Where did you go? A. Where they met, at 59th Street, 242 East 59th Street.

Q98. Had you seen anyone from the union prior to the time you went down there? A. Yes, I think I saw the delegate Donovan.

Q99. You had talked to Donovan at this time, before you went down to headquarters? A. I think so, yes.

Q100. When was it you talked with him? A. Probably a day or two after the strike, I can't just remember.

Q101. Did he come to your place, or where did you see him? A. I think I met him around our place.

1521

Q102. And what did he say? A. I could not tell you now, it is so long ago.

Q103. Did you ask him if he had called the men out? A. I knew he called them out; why should I ask him that?

Q104. What was the substance of your conversation? A. I probably talked with him to see how the thing could be fixed up to call the strike off. He told me to come down to their meeting there and

talk it over with the officials there, which I did.

Q105. You asked him, in effect, how the thing could be fixed up, and he said to come down to headquarters, is that it? A. Yes, sir, as near as I can remember it.

Q106. Is that all you recall now? A. Yes, sir.

Q107. How long after that was it, you went to headquarters? A. Oh, the next day or two.

Q108. Was that in the daytime or the night time? A. In the night time.

Q109. Whom did you see there? A. There were
1523 six or seven around a big table there; Mr. Cook, Mr. Rice he was there, and a lot more fellows, I don't know.

Q110. Was Mr. Donovan there? A. I think he was there.

Q111. Mr. Bausher? A. I am not sure whether he was there or not.

Q112. What took place? A. Well, we talked over the thing to see how we could get the strike settled, and the outcome of it was, that we had to go to their lawyer's office and this agreement was drawn up there, which we signed.

Q113. Was this agreement agreed upon before
1524 you came to this lawyer's office? A. Well, agreement something like that; we were to put up a bond of $1,500 we would not use any more non-union material, and they gave us thirty days to test us out, I believe.

Q114. Well, then, at this meeting it was agreed that you should put up a bond of $1,500 not to use any more non-union material and the men would go back to work? A. Yes, sir.

Q115. Is this Mr. Beattie here, one of the defendants' counsel, the gentleman whose office you

went to? A. I could not say now, it is so long ago.

Q116. You don't recognize him now? A. No, sir.

Q117. Is the name on the back of this agreement and the address, the name and address of the office where you went? A. I think so, yes.

Q118. At this time, when these men went out on strike, you were operating a union mill? A. Yes, sir.

Q119. And had an agreement with the Joint District Council? A. Yes, sir.

Q120. And that was an agreement in writing? A. Yes, sir.

Q121. When did you surrender that agreement? A. On the night down at that meeting, after the strike.

Q122. Did they ask you to give it up? A. They asked me for it and I handed it to them, and they kept it.

Q123. Have you any other agreement with them now? A. I have an agreement with them through the Building Trades Employers' Association.

Q124. Are you a member of the Manufacturing Woodworkers' Association? A. Yes, sir.

Q125. Which is a part of the Building Trades Employers' Association? A. Westchester Woodworking Co. got me to join that in order to make them a union shop.

Q126. Then you are a party to this agreement, Exhibit C, attached to the complaint? A. Yes.

Q127. What time of day was it you signed this agreement (Ex. 12)? A. Late in the afternoon, I think it was.

Q128. Did the men return to work after that? A. Yes, sir.

Q129. When? A. I think the next day.

1528 Archibald T. Mackenzie for Complainant—Direct.

Q130. The same men? A. The same men.

Q131. Was this agreement to only run for thirty days?

Mr. Beattie: I object. The agreement speaks for itself.

A. Yes, sir.

Q132. Have you purchased any non-union doors since the execution of this agreement? A. No, sir.

Q133. Why didn't you purchase non-union doors after this agreement expired? A. It burned down;

1529 I did not need any.

Q134. You are doing business to-day? A. No, the place is burned down again.

Q135. When did the second fire take place? A. October 5, 1911.

Q136. And when did the first fire take place? A. September 12, 1910.

Q137. Why didn't you purchase any doors between those dates?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

1530 A. Because I was still supposed to be a union shop.

Mr. Mayer: And I move to strike out the answer.

Q138. Is it your understanding that operating a union shop, you are not permitted to buy non-union material?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

1531

A. Yes.

Q139. Is that the reason you have not purchased during that period?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; a conclusion.

Mr. Mayer: Same objection.

A. Yes.

Q140. Have you ever done business with any of the other plaintiffs in this action besides the Bristol? A. I don't think so; no, sir.

1532

Q141. Haven't you done business with the R. McMillen Company? A. No.

Q142. Paine Lumber Company? A. No, sir.

Q143. The Gould Manufacturing Company? A. No, sir.

Q144. But you have done business with the Bristol Door & Lumber Company? A. Yes, sir.

Q145. Referring to this letter, Exhibit 10, I will ask you whether you wrote that letter on your own initiative, or on the request of someone else? A. Why, one of the delegates asked me to write, or told me it would be a good idea to write, to some of these people and tell them we could not buy any more off them, to try to bring them around to make their shop union. I was anxious to still buy doors off them, because I could buy them very cheap and I would like to see them join myself.

1533

Mr. Beattie: I move to strike out the answer; incompetent, irrelevant and immaterial.

Q146. Did you write any other letters besides this one? A. Yes, I believe I did.

Q147. To whom did you write? A. To a couple

of the other people where we had bought doors off of.

Q148. Did you write to the Bristol Door Company? A. No, they don't make veneered doors. I think I wrote to the Gilman Door Co. and the Iroquois Door Co.; I think we had bought some from them too.

Q149. And were all these letters written on the request of the delegate? A. Not particularly by their request. I had to notify these people that I could not buy any more there, as I had been dealing from them some time, on account of this new situation.

1535

IT IS CONSENTED that copies of exhibits 10 and 11 may be written into the record with the same force and effect as if the originals were offered.

Q150. Are you rebuilding? A. Yes, sir.

Q151. Intending to go in business? A. Yes, in a few months. We have been delayed with bricklayers' strike, otherwise we would have been further ahead.

1536

Q152. I understand that you testified that you could purchase these doors cheaper from these non-union concerns than the other union concerns with which you are familiar? A. Yes, sir; doors, 15% cheaper.

Cross-examination by Mr. Beattie—

XQ153. In these conversations with these alleged carpenters' delegates, didn't they claim that you were violating a part of the agreement by buying non-union stuff—the agreement that you had

made prior to this agreement $12? A. Yes, sir.

XQ154. Now just before the strike you had a lot of non-union material in your shop? A. Yes, sir.

XQ155. Some of it was McMillen? A. No, sir; some of it was Bristol and some Morgan.

XQ156. Didn't you have other non-union material? A. No, that is all.

XQ157. Well, when you ordered non-union material in that way, these carpenters in your shop have to make it over and work on it to some extent? A. No, sir; they don't have to touch it.

XQ158. Didn't have to touch it at all? A. No, 1538
sir.

XQ159. Didn't you understand by the agreement you had made with them prior to the agreement (Ex. 11) here, that you were not to buy and handle in your shop non-union material? A. Yes, sir.

XQ160. It is difficult for anyone to know whether the material passing through your shop which you send out is union or non-union, isn't it? A. Well, the work that passes through our shop it would be hard to tell, but not on the doors, because most of the makers of doors have their names on the doors. 1539

XQ162. Most of them do? A. Yes, sir.

XQ163. You make doors too, don't you? A. Very few.

XQ164. Do you put your name on those that you do make? A. No, sir.

XQ165. When you signed this agreement (Ex. 11), which states it is to last for thirty days, did you have your own lawyer present? A. Yes.

XQ166. Then that agreement was the work of your lawyer and the lawyer for the carpenters,

wasn't it? A. It was drawn up by the other side. Our lawyer might have made one or two suggestions, possibly.

XQ167. But he was there to make any suggestion? A. Yes, sir.

XQ168. And you made that agreement on his advice, didn't you? A. He told me to sign it, it would be all right.

XQ169. Did you handle very much 1⅜" sash? A. Yes, sir; quite a little.

XQ170. Do you do any work upon that in your
1541 shop? A. Sometimes odd lots of sash we make in the shop ourselves, the regular orders where we have time we get them from out of town from non-union shops, which was allowed.

XQ171. When you say the delegates of the carpenters pulled the men out, it may have been that the delegates told the men about the non-union material that you were handling and the men voluntarily gave up work, may it not? A. That I could not say, I know they went out on account of this non-union material, but I would like to explain that, when we signed——

XQ172. Don't now, just wait until we get
1542 through. Did you tell these carpenters that were working for you that these non-union doors, sash, and blinds, were from the Morgan Company or from the Bristol Door & Lumber Co.? A. I told them the doors were from the Morgan Co. Sash and blinds there was nothing said about, because we were allowed to get them in.

XQ173. I mean, the journeymen carpenters, before you saw any of these delegates of the carpenters, as you call them, did you tell the journeymen carpenters in your shop that this non-union mate-

1543

rial was made by Morgan or by Bristol? A. You mean the men who worked for us?

XQ174. Yes? A. They all knew that, because the doors were all marked.

XQ175. Was the sash and blinds marked? A. No, sir.

XQ176. Did you tell them that the sash and blinds were non-union? A. Well, I did not need to tell them that, because that is allowed, we can get all the sash and blinds in, no matter where we get them rom, that is allowed in the agreement that we signed with them.

1544

XQ177. Were they all 1⅜" sash? A. All 1⅜" sash and blinds we can get from any non-union shop we want, no matter where.

XQ178. Then you understand that the carpenters make no complaint about 1⅜" sash and exterior blinds? A. Yes, that is understood. I had that in my agreement.

XQ179. Did you become a member and sign the agreement with the Manufacturing Woodworkers' Association also on the advice of your lawyer? A. No, sir.

XQ180. Did you not consult him about that agreement? A. No, sir.

1545

XQ181. Is this present bricklayers' strike of yours the result of your handling non-union material? A. Oh, this strike now is on account of some stone masons that work on the foundation, but who were principally non-union men. They also objected to my buying off a certain man where we were getting materials.

XQ182. It has nothing to do with the carpenters? A. No.

Re-direct examination by Mr. Merritt—

RDQ183. What was the explanation you wanted to make? A. On account of the non-union material we had there. When we signed that first agreement with the Carpenters' Union, it was understood verbally that all orders we had placed out for Morgan or any other place that was non-union, that we were allowed to get these in. Of course, we took advantage of that and had a lot of non-union stuff ordered and some of it was not shipped. So some
1547 of the non-union material came in, that caused the strike. I wanted to explain how we got that material in, notwithstanding we were not to buy any more.

Re-cross-examination by Mr. Mayer—

RXQ184. Your understanding was, from your talks with these union delegates that you have testified you talked to, that the union men did not want to work on any material that was not made by the members of their organization. isn't that so? A. That I was not to buy any material unless it was made by their organization.

1548 RXQ185. And that is what they told you? A. Yes. I told them I had a lot of doors and some base mouldings ordered, and well, they said that would be all right, "whatever you have ordered you can get in and use."

RXQ185a. But in the future, the men of the carpenters' organization did not want to work on any material that was purchased from a mill where their own members did not work?

Mr. Merritt: I object to that, as it is im-

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possible for this witness to testify to what the members of the Carpenters' Union wanted to do, and the question is clearly improper.

A. The Carpenters' Union refuses to put up all non-union stuff, I know that.

RXQ186. That is not what I mean. The delegates told you when you talked to them, that their men did not want to work on any material that was not made by their own organization members? A. What do you mean by "their men"—the men working in our shop?

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RXQ187. The men working for the Carpenters' Union? A. The men on the buildings?

RXQ188. Yes, sir? A. They refuse to put up any stuff unless it is made by a union shop.

RXQ189. By members of their union? A. That is right.

RXQ190. That is what you understood? A. Yes, sir.

RXQ191. That is what they told you? A. Yes, sir.

Adjourned at 12.45 P. M. for luncheon.

1551

Hearing resumed at 2.15 P. M.

Same appearances except Mr. Whittaker.

WILLIAM J. HOLMES, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. William J. Holmes.

1552

Q2. And your age? A. Thirty-three.

Q3. What is your business? A. Secretary of the Building Trades Employers' Association.

Q4. That is your only business? A. That is my only business.

Q5. Where is your office? A. 34 West 33d Street.

Q6. And that is the office of the Building Trades Employers' Association, is it not? A. Yes, sir.

Q7. The exact title is the Building Trades Employers' Association of the City of New York, is it not? A. I don't think so, no, just Building Trades Employers' Association.

1553

Q8. The Constitution and By-Laws attached to the answer of the various builders in this case is the Constitution and By-Laws of your association, is it not? A. That is it; yes, sir.

Q9. And all your members do business in the City of New York and vicinity? A. Yes.

Q10. What is your total membership, approximately? A. Approximately 900.

Q11. And does it cover various industries mentioned in Article VII of the Constitution attached to the answer of the builders herein? A. Yes, it does.

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Mr. Mayer: By "builders" is meant the defendant members of the Master Carpenters' Association?

Mr. Merritt: Yes.

Q12. And is the Master Carpenters' Association a part of the Building Trades Employers' Association? A. Yes, sir.

Q13. And its members are members of the Building Trades Employers' Association? A. Yes.

1555

Q14. The members of the Master Carpenters' Association are contract carpenters engaged in building, are they not? A. Yes.

Q15. And the members of the Manufacturing Woodworkers' Association are those engaged in the production and manufacture of wood materials? A. Yes.

Q16. How long has your association been in existence, referring to the Building Trades Employers' Association? A. Since June, 1903.

Q17. And have the Master Carpenters' Association and the Manufacturing Woodworkers' Association been members ever since? A. I am not sure about that offhand. I should say they both were. (Refers to Constitution.) I believe they both were in at the beginning; yes, sir.

1556

Q18. Now the Employers Building Trades' Association in New York City, of which you are secretary, operated under what is known as a Joint Arbitration Plan at one time, did they not? A. Yes, sir.

Q19. And that is the Arbitration Plan attached to the complaint herein and marked "Exhibit A," was it not? A. Yes.

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Q20. When was that Arbitration Plan first put into operation and effect? A. The original plan I believe was dated July 3, 1903, with some amendments July 9. It was subsequently amended April 22, 1905.

Q21. And how long did it continue in operation and effect? A. Until January, 1910, I don't know the exact date.

Q22. And it was in existence during that entire period, from 1903 to 1910? A. Yes, sir.

Q23. Were all of the various trades connected

with the Building Trades Employers' Association parties to that Arbitration Plan? A. Yes.

Q24. Were the unions of those respective trades also parties to it? A. The unions of mechanics were, not laborers or helpers unions, though; the mechanics organizations were.

Q25. That is, the mechanics organizations of the various building trades which were represented in your organization? A. Yes.

Q26. The United Brotherhood of Carpenters and Joiners of America or its Joint District Council in
1559 New York City were also parties to that Arbitration Plan? A. Yes, sir.

Q27. And the Master Carpenters' Association? A. Yes.

Q28. And the Manufacturing Woodworkers' Association? A. Yes.

Q29. Was there any union of employees working for the members of the Manufacturing Woodworkers' Association also parties to it? A. I believe the Amalgamated Woodworkers were parties to it.

Q30. And they were separately represented from the United Brotherhood of Carpenters? A. Yes.

Q31. Who was the secretary of this Joint Arbi-
1560 tration Plan? A. In the beginning, Mr. Samuel B. Donnelly.

Q32. And who was his successor? A. Mr. John S. Henry.

Q33. Do you know when the change took place? A. I don't know exactly, no.

Q34. Who has custody of the minutes? A. I have.

Q35. When did they come into your possession? A. About January, 1910.

Q36. Who gave them to you? A. The President

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and Secretary of the General Arbitration Board.

Q37. Mr. Henry? A. Mr. Henry.

Q38. And were they given to you as Secretary of the Building Trades Employers' Association? A. Yes, sir.

Q39. There were minutes kept, were there not, of the General Arbitration Board acting under the Joint Arbitration Plan?

Mr. Beattie: I object to that, it is not within his knowledge.

1562

Q40. You have in your possession minutes purporting to be the minutes of the General Arbitration Board of the Joint Arbitration Plan? A. Yes.

Q41. And you have in your possession minutes purporting to be the minutes of the meetings of the Executive Committee of that General Arbitration Board? A. Yes.

Q42. And all of these minutes of the General Arbitration Board and the Executive Committee were, as I understand it, handed to you by the Secretary, Mr. Henry, and the President of the General Arbitration Plan? A. Yes, by Mr. Henry; I received them from Mr. Henry. 1563

Q43. And you have brought here, have you not, the minutes of the Executive Committee of the General Arbitration Plan? A. Yes, for 1909.

Q44. These three volumes of minutes have been kept in your office, or in the office of the Building Trades Employers' Association, since the termination of the General Arbitration Plan? A. Yes, sir.

Q45. Except as they were down here in connection with the testimony given in another case? A. Yes.

1564

Q46. And you were not present yourself at any of the meetings of the General Arbitration Board? A. No, sir.

Q47. Or of its Executive Committee? A. Except on a few occasions, when I was present at the meeting of the Executive Committee for some particular reason.

Q48. Can you point to any of the executive meetings in this volume at which you were present? A. No.

Q49. Can you recall whether you were present at
1565 any of the meetings in 1909? A. I am pretty sure I was not; I was only there once or twice.

Mr. Merritt: Now I will ask to have these books purporting to contain minutes from January 5, 1909 to March 29, 1909, marked Comp. Ex. 13 for Id.; and book purporting to contain the minutes from April 7, 1909, to July 28, 1909, marked Comp. Ex. 14 for Id.; and book purporting to contain the minutes from August 2, 1909, to December 22, 1909, and also three meetings in January 10, marked Comp. Ex. 15 for Id.

1566

Q50. Can you tell me, Mr. Holmes, how many master carpenters are members of your Association? A. I cannot, exactly.

Q51. Can you tell me how many manufacturing woodworkers are members of your Association? A. If I had a list of members I could; I did not happen to bring it with me.

Mr. Mayer: We will admit it.

Q52. And these books, Complainants' Exhibit 13,

14 and 15 for Id. came into your possession through Mr. John S. Henry at the termination of the General Arbitration Plan, in the early part of 1910? A. Yes.

Q53. And you have no reason to believe but what they are minutes of the meetings of the Executive Committee which they purport to be?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, and not within the knowledge of the witness.

1568

A. I have no reason to believe that they are not; I believe they are.

(No cross-examination.)

JOHN MCCLURG, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. John McClurg.

Q2. And your age? A. Forty-nine.

Q3. And you are secretary of the Master Carpenters' Association? A. I am. 1569

Q4. How long have you been secretary? A. Less than two years.

Q5. Prior to that time, you were assistant secretary, were you not? A. I was.

Q6. And who was the secretary? A. Robert Christie, Jr.

Q7. And Robert Christie, Jr. was also engaged in business as a master carpenter? A. He was.

Q8. And you were employed on a salary to as-

1570 sist him in connection with his work as secretary? A. I was.

Q9. Was Mr. Christie salaried by the Association? A. He was not.

Q10. Mr. Christie died about two years ago? A. He died the last day of March, 1909, I think, or April.

Q11. And after his death, you became secretary? A. I did.

Q12. And that is your sole business, is it not? A. Yes.

1571 Q13. When was the Association formed? A. It is many years ago when the Association was formed; I could not give you the date.

Q14. About the time when the Building Trades Association was formed? A. The Master Carpenters was in existence many years before that.

Q15. And when did you first become assistant secretary? A. 190.5

Q16. Then you have been salaried as assistant secretary and subsequently as secretary of the Association since 1905? A. I have.

Q17. And the only person under salary in the
1572 office as secretary or assistant secretary? A. Yes, sir.

Q18. Your Association is also connected with the Building Trades Employers' Association, is it not? A. Yes.

Q19. And in that capacity it was a party to the General Arbitration Plan under which that Building Trades Association operated, was it not? A. Yes.

Q20. How many members has your Association? A. Ninety-eight.

Q21. And it has had approximately that for a number of years past? A. It has.

Q22. And these members are all of them master carpenters or builders in the City of New York? A. Yes.

Q23. And their building operations extend throughout all the City of Greater New York? A. It does.

Q24. I suppose they also conduct building operations in some other localities, some of them? A. Sometimes.

Q25. And your association comprises most of the 1574
important contract carpenters in the City of Greater New York? A. I think it does.

Q26. And conducts most of the important building operations? A. I think it does.

Q27. How many concerns of any size are there outside of your association in this line of business in the City of New York? A. I don't know.

Q28. You testified in the other case that there were very few, if any? A. Oh, I think so.

Q29. You think that is true? A. I do.

Q30. I understand that all of the defendants in this case who have appeared by Eidlitz & Hulse
are members of your association? A. Yes. 1575

Q31. And James Elgar and Bottsford, Dickson & Co. are both members? A. Yes, sir.

Q32. The members of your association employ journeymen carpenters in the conduct of their building operations, do they not? A. Yes.

Q33. They also purchase doors, sash and wood materials, do they not?

Mr. Beattie: I object to that as not within the witness's knowledge; incompetent, irrelevant and immaterial.

A. Yes.

Q34. Don't you know that is a fact as to the character of business in which they are engaged? A. I do.

Q35. The Master Carpenters' Association has also entered into an agreement, Exhibit B, attached to the complaint, with the Joint District Council of the City of New York, has it not?

Mr. Beattie: I object to that as it is admitted in the pleadings.

1577 (Witness examined Exhibit B.)

A. Yes.

Q36. Now that agreement was made about October, 1909? A. October 30, 1909.

Q37. Prior to that agreement, did the Master Carpenters' Association have any agreement with the Joint District Council of the carpenters? A. No. They had no agreement for some time.

Q38. Well, there was an agreement at one time, was there not? A. Yes.

Q39. Do you remember the date, approximately, when that former agreement was entered into? A.

1578 No. I don't recall.

Q40. How long a period of time were they without an agreement, prior to October, 1909? A. It was over a year.

Q41. Now, isn't it true that in 1907 the Master Carpenters' Association circulated among its members information as to the names of manufacturing woodworkers whom the Carpenters' Union had declared unfair?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial; too remote; evidently

not within the knowledge of the witness.

Mr. Mayer: Same objection.

A. It did.

Q42. It did that for a period of about two years?

Mr. Beattie: Same objection.

Mr. Mayer: Same objection.

A. Yes.

Q43. And as I understand it, that practice has not been conducted in recent years? A. It has not. 1580

Q44. And it was discontinued some time in 1907? A. It was.

Q45. Well, isn't that the time when the agreement which you formerly had with the Joint District Council went out of existence? A. Yes.

Q46. Then the former agreement terminated, you think, some time in 1907? A. I think so.

Q47. And there was no agreement between the Joint District Council of the Carpenters and the Master Carpenters' Association between some date in 1907 and October 30, 1909? A. Yes.

Q48. That is true? A. Yes; I think that is right, about that time. 1581

Q49. All of your members are parties to this agreement Exhibit B, concerning which you have testified, are they not? A. Yes.

Q50. And the same is true in regard to the former agreement that went out of existence in 1907? A. Yes.

Q51. And both of those agreements were made with the Joint District Council of the Carpenters? A. Yes.

Q52. Have you minutes of the meetings of the

1582 John McClurg for Complainant—Cross.

Master Carpenters' Association in your custody? A. I have.

Q53. And how far back do they go? A. Oh, some few years.

Q54. Aren't they all in existence from the time that the Association became a part of the Building Trades Employers' Association? A. Yes.

Q55. And they would all be in existence since 1903? A. Yes.

Q56. When did your association become a part of the Building Trades Employers' Association?
1583 About the time it was first organized, in 1903? A. In 1903; yes.

Cross-examination by Mr. Beattie—

XQ57. About how many master carpenters are there in the City of New York, approximately? A. I am in doubt about how many master carpenters; I will put it over 2,000.

XQ58. Are you prepared to say what proportion of the work of building, so far as the carpenters are concerned, is performed by your members and the rest of these 2,000 and upward carpenters within
1584 the State of New York? A. No.

XQ59. You only know that your people do an important part of the work? A. Yes.

XQ60. You don't mean to say that there are not a number of large builders who are not members of your association. A. I do not.

XQ61. As a matter of fact, there are a number of large builders, are there not? A. Yes.

By Mr. Merritt—

Q62. That is, that are master carpenters? A.

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Yes; there are large builders who are master carpenters but who are not members of the association.

By Mr. Beatty—

XQ62. And these master carpenters who are not members of your association do from time to time large building operations in the City of New York? A. No. doubt.

XQ63. With regard to these lists that you have characterized as unfair, issued by the Joint District Council in 1907 or for two years prior thereto, do you know whether they were requested by the members of the Master Carpenters' Association? A. Whether they asked for these lists?

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XQ64. Yes. A. No.

XQ65. You don't know? A. They did not.

XQ66. Are you prepared to say that none of them did ask for them? A. I am not.

By Mr. Mayer—

XQ67. You mean as an association? A. As an association.

1587

By Mr. Beattie—.

XQ68. I mean as to the individuals. Do you know whether these individuals asked or did not ask the District Council for these lists for information? A. Oh, I don't know anything about that.

XQ69. Wasn't it a common and natural thing for these master builders,—they were then under an agreement with the District Council—to ask what concerns were union and what concerns were non-union ? A. It was a common and a general thing

for them to look to the secretary of the Master Carpenters' Association for any information they wanted.

XQ70. And you had to get that information to some extent, did you not, from the District Council, as to which concerns were fair and which were unfair? A. Well, a question may have been asked now and then.

XQ71. Did you, independently of the District Council, ascertain which mills were fair and which were unfair, yourself? A. We did not.

1589 XQ72. Well, when Master Carpenters looked to you for that information as to whether a mill was fair or unfair, you would ascertain whether it was fair or unfair? A. We might ask a question then, if such a direct question were asked; we would endeavor to find out through the Joint District Council if they had an agreement with the firm mentioned.

XQ73. That was the real way these alleged unfair lists arose, was it not? A. It was not.

XQ74. It is not? A. No, sir.

XQ75. Well, it was part of the agreement of the master carpenters at that time, that is, we are talk-
1590 ing of the year 1907 and two years prior thereto, not to buy non-union material, was it not? A. As it is of the agreement of the present time.

XQ76. The agreement in existence then provided that the master carpenters should not buy non-union material? A. Yes.

XQ77. And the master carpenters would ascertain from you what mills were making union and non-union material? A. Not as a general thing; now and then that question was asked.

XQ78. How would they ascertain that? A. The

Joint District Council would send to the secretary of the Master Carpenters' Association, and I as assistant secretary would receive, communications from Mr. Featherston, who was then secretary of the Joint District Council, a communication in which the names of certain firms that they declared were unfair appeared. 1591

XQ79. Well, that was in order to give you the information that the master carpenters would request from you, wasn't it? A. That was to give the secretary of the master carpenters information that certain firms they considered unfair. 1592

XQ80. That is, your members wanted to keep their agreement not to buy non-union material, and they needed that information in order to keep their agreement, didn't they? A. I don't see it that way.

XQ81. Well, if a builder bought from a mill that he did not know was union, he would run the risk of strikes? A. It would be up to him.

XQ82. Well, it was to the interests of the members of your association to know which mills the union considered fair and unfair, wasn't it? A. That was a matter for the union to take care of.

XQ83. Well, it was a matter for you people to take care of? A. We never asked for a list from the Joint District Council at any time. 1593

XQ84. You did not? A. Never.

XQ85. Didn't you inquire about particular firms, to ask whether they were union? A. We have done that by request.

XQ86. By request of the members of your association? A. Yes; now and then.

XQ87. Well, they never gave you a list of all the unfair mills or of all the fair mills, did they? A. No; I don't think they did.

1594 XQ88. Well, during the period from 1907-9 that you had no agreement with the carpenters, was the period of a lockout by the members of your association of the journeymen carpenters, wasn't it? A. No; we had no lockout.

XQ89. Wasn't that the second lockout? A. We had no lockout.

XQ90. You have locked out all the journeymen carpenters twice within recent years in this city, haven't you? A. It was a small matter, if it was.

XQ91. You locked them out for nine months,
1595 didn't you? A. The first time; yes.

XQ92. When was that? A. In 1903, wasn't it, when the building trades were organized; that was before my time. No serious lockout in my time.

XQ93. There was one lockout in your time? A. Oh, yes; we have a little scrap now and then.

XQ94. Was there more than one lockout in your time? A. No; only one.

XQ95. How long did this lockout in your time last? A. I don't recall that we had a lockout; I don't think we had any in my time.

XQ96. I thought you said you had? A. No; I said we had a little scrap now and then.

1596 XQ97. As a result of that scrap, didn't you lock out these journeymen carpenters? A. No; not a general lockout. There have been jobs that have not been running.

XQ98. Well, anyway, you have received no unfair lists, as you call them,—— A. I don't call them unfair lists at all; the Joint District Council calls them unfair lists; I don't call them anything; I accept them for their face value. You say several times that I call them unfair lists; I don't do any-

thing of the kind. I say, that they called them unfair.

XQ99. When you answered the questions of Mr. Merritt, who did refer to unfair lists, you don't mean to imply that you consider them unfair in your answers? A. No.

By Mr. Mayer—

XQ100. Did you understand by these lists of firms that were sent to you from time to time from the Carpenters' Union, that they were a list of some of the firms who did not employ Brotherhood of Carpenters in their shop exclusively? A. Yes. 1598

XQ101. Is that what you understood them to be? A. Yes.

XQ102. And you have not gotten any of those since 1907? A. That is true.

By Mr. Maloney—

XQ103. As I understand it, these lists that you are referring to, or which have been exhibited to you, are lists which you send out to the members of the Master Carpenters' Association? A. Yes.

XQ104. Didn't you send these papers out and receive communications of this kind through the Central Arbitration Board of the New York Building Trades? A. No. I would like to qualify that. 1599

XQ105. Well, go ahead. A. We did receive communications from the General Arbitration Board containing the same information that we had received from the Joint District Council, but the copies of the communications that we sent to our members, were copies of communications we received from the Joint District Council.

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XQ106. But in other words, the Joint Arbitration Board, the Master Carpenters' Association, and the Joint District Council or union men, were making lists of firms which did not supply union material, and the information was being disseminated to the members of the Master Carpenters' Association, through your secretary; is that right? A. No; that is not right.

By Mr. Mayer—

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XQ107. Do I put it correctly, when I state that prior to 1907 you would receive from time to time from the Joint District Council a list of firms which did not employ members of the Brotherhood of Carpenters exclusively? A. Yes.

XQ108. And that you thereupon transmitted this information in the form of a letter to your members? A. Right.

By Mr. Maloney—

XQ109. Why did you do that? A. So that they might know we had received such a communication.

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XQ110. Was it merely to inform them that you had received such a communication or to inform them of the fact that certain people did not make the material or did not employ union men? A. It was to inform them that we had received such a communication.

XQ111. You received the same information through the secretary of the General Arbitration Board of the New York Building Trades? A. We did.

XQ112. And in one communication, which is the only one produced, so far as I can see, made by

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Featherston, he says at the bottom, "Trusting the above will be satisfactory to you?" A. This was addressed to Christie.

XQ113. Why, if you can give any reason, did Featherstone ask that he hoped it would be satisfactory? A. I know of no reason why he should hope it would be satisfactory.

Mr. Merritt: I ask to have that letter marked "Complainants' Exhibit 16 for Identification."

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XQ114. Do you know whether these communications were replied to? A. Uusally.

XQ115. Were there complaints made by any parties to this agreement that there were violations of the agreement? A. There was.

XQ116. And amongst the complaints were there complaints made that some of the master carpenters were using what the union carpenters said was non-union material? A. There were such complaints.

XQ117. Did such complaints come before the Master Carpenters' Association while you were connected with them, either as secretary or assistant secretary? A. Yes.

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XQ118. Were you present when these complaints were heard? A. No.

XQ119. Where were they heard? A. At the Trade Board.

XQ120. The General Arbitration? A. No; the Joint Trade Board.

XQ121. That was a subsidiary scheme in the General Arbitration Plan, was it? A. That was a part of the agreement between the Master Carpenters' Association and the Joint District Council.

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XQ122. Whenever there was a disagreement, then, it went to the particular trades committee; is that it? A. That is it, exactly.

XQ123. And whenever there was a disagreement by your Trade Arbitration Board, and they could not agree, it went to the General Arbitration Board of the Building Trades' Association? A. Yes; and when they could not agree it went to an umpire.

XQ124. And when these disputes arose, they came before the Trades' Committee? A. Yes.

XQ125. The Master Carpenters Trades' Com-
1607 mittee? Yes.

XQ126. Were you present at the disposition of those disputes? A. No.

XQ127. Who was; Secretary Christie? A. No.

XQ128. Who took the minutes of the proceedings? The secretary of the Joint Trade Board.

XQ129. Of the Joint Trade Board? A. Yes.

XQ130. Was it claimed by members of your Master Carpenters' Association in any of those cases, as far as you know, that they were ignorant of the fact that the parties from whom they had purchased the material were makers of non-union material? A. I never attended one of the meetings of the Joint
1608 Board, and don't know what statements or what claims were made.

XQ131. You simply know that disputes did arise on that subject? A. That is all.

XQ132. From whom did the secretary, Mr. Christie, or you, as assistant secretary, receive instructions, if at all, in the Master Carpenters' Association, with respect to these matters? A. The Executive Board of Trustees, if at all.

XQ133. Was there a president of the Master Carpenters' Association? A. There was.

XQ134. Did he give instructions from time to time concerning these matters? A. No.

XQ135. There was an Executive Committee? A. Yes.

XQ136. Who were the members of the Executive Committee at these times? A. I don't know; there were a president, secretary, treasurer and vice-president and nine members elected from time to time, three each year, for three-year terms.

XQ137. During this period, did you ever hear either the president or any of the members of the Executive Committee instruct Mr. Christie or did 1607
you receive any instructions to be careful to ascertain which were makers of non-union material, so as to give members of the association, the Master Carpenters' Association, the accurate information? A. I did not.

XQ138. From whom did you receive instructions to send out the communications which you did send out to the master carpenters? A. From the secretary.

XQ139. And do you know where he received instructions from, to send them out? A. I do not.

XQ140. Was it your understanding that it was 1608
pursuant to Mr. Christie's duty that he was sending out these communications? A. Yes.

XQ141. Did you yourself, as assistant secretary, in his absence send out some? A. I did.

XQ142. When you sent them did you send them simply pursuant to the practice which you knew Mr. Christie was pursuing, or did you receive instructions? A. I sent them pursuant to the usual practice.

XQ143. And you thought that was in accordance

with your duty as assistant secretary in his absence? A. I did.

XQ144. Did anyone of the Executive Committee or the president at any time disapprove of this practice of sending out these communications, as far as you know? A. No.

XQ145. Did you at that time suppose that there was any conspiracy existing with respect to these matters by either the Master Carpenters' Association or any of its members or the Joint District Council against any of these parties whose names
1613 were mentioned on the list?

Mr. Merritt: Objected to as incompetent, irrelevant and immaterial, and calling for a conclusion.

A. No.

XQ146. Did you ever hear any member of the Master Carpenters' Association or any one of the Joint District Council say that these lists were sent out as part of a conspiracy to injure the business of any of the parties mentioned or named on the list? A. No.

1614 XQ147. No attempt was made, either by Mr. Christie or yourself, or by the secretary of the General Arbitration Board of the New York Building Trades, to conceal from anyone the fact that you were sending out these various communications? A. No.

XQ148. They were done openly and honestly at all times, were they, so far as you know?

Mr. Merritt: I object to that as calling for a conclusion as to whether they were done honestly or not, and also on the ground that he has

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asked the witness to testify concerning the acts of parties concerning whom witness has no knowledge.

A. Oh, yes.

XQ149. Mr. McClurg, in the questions that were put to you, both in the Irving & Casson case and in the Paine Lumber Company case, you answered that these master carpenters you thought made most of the important buildings. A. That is what I said.

XQ150. And you did not mean by that to imply that they did the most of the work in New York—merely referred to buildings of important character? A. No; not most of the work in New York.

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XQ151. This referred to buildings of important character? A. That is the idea, exactly.

Re-direct examination by Mr. Merrit—

RDQ152. Does your organization, or the members of it, do the larger part of the building operations on the Island of Manhattan? A. I think they do.

RDQ153. That is, the major part? A. I think they do.

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RDQ154. And when you testified to the fact that there were 2,000 other master carpenters, and the fact that you did not mean to say that your members did the larger part of the building operations in the City of New York, you included Brooklyn and the other Boroughs, did you not? A. Yes.

RDQ155. I suppose it makes no difference where the master carpenter has his place of business, that he might do his work in any one of the boroughs, might he not? A. Yes.

RDQ156. What other large builders are there

whom you could name that do work on the Island of Manhattan? A. Outside of the membership?

RDQ157. Yes. A. I could not name them.

RDQ158. Couldn't you name any of them? A. No.

RDQ159. What reason have you to believe that there are other large builders who do work on the Island of Manhattan besides the members of your association? A. I believe there are. I cannot at this minute recall the names of any of them; a half hour from now I might recall half a dozen. I know
1619 there are others who do a large business on the Island of Manhattan. I still contend that the Master Carpenters Association do the larger part of the important work.

RDQ160. As I understand, you feel that the Master Carpenters' Association, or its members, do a larger part of all the work on the Island of Manhattan? A. No; of the important work; not all the work; there are a thousand and one master carpenters right around us here.

RDQ161. Then you do not think the members of your association do the major part of the work on the Island of Manhattan? A. No; I do not; not the
1620 work.

RDQ162. Or the major part of the carpentry work on the Island of Manhattan? A. No; not in that way.

RDQ163. As I understand it, on the examination of Mr. Beattie you testified that the former agreement which your members had with the Joint District Council forbid the purchase of non-union woodwork, and that your present agreement does? A. Yes; it does.

RDQ164. I also understand that any communica-

tions that you received from the Joint District Council as to concerns being unfair, you also received duplicates from the General Arbitration Board? A. We have received duplicates; yes.

RDQ165a. Well, in most instances did you receive duplicates? A. Yes; in a great many.

RDQ165. Did you receive communications of the same character from the Joint Arbitration Board? A. We did; yes.

Mr. Maloney: I want to strike out the word "duplicates," because that is putting into his mouth a word he did not use. 1622

RDQ166. I do not mean by duplicates that they were necessarily exact copies, but that they were communications of the same character? A. Yes, sir; that is it.

Mr. Merritt: I want to offer in evidence, "Complainants' Exhibit 16."

Mr. Beattie: I object, because it does not refer to any of the plaintiffs; it is too remote; incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection, and not properly proved. 1623

"COMPLAINANTS' EXHIBIT 16.

UNION
LABEL

United Brotherhood of Carpenters and Joiners of America and Amalgamated Society of Carpenters and Joiners of America.

1624 John McClurg for Complainant—Re-direct.

JOINT DISTRICT COUNCIL
of
Greater New York and Vicinity.

Headquarters: 142-144 East 59th Street.
New York, July 20th, 1907.

Mr. Rob't. Christie, Jr.,
Sec'y., Master Carpenters' Association.
Dear Sir:

The following is a list of the unfair firms which are on the unfair list;

1625 F. T. Nesbitt,
E. J. Reiser,
Bayer & Catton,
John C. Orr,
Irving, Cassons Co.,
Wm. Kleeman,
McConnell, of Hornell,
John Pinches, New Britain, Ct.,
Chatataqua Plaining Mills of Jamestown, N. Y.
Geo. Erlocker,
Weiner & Palavitz,
New York Fireproof Sash & Door, Co., Brooklyn,
1626 New York Fireproof Co., N. Y. City,
A. W. Burrett & Co., Bridgeport, Ct.
Marcus Wood Working Co., New York.
Morganthaler, Brooklyn.

Trusting the above will be satisfactory to you, I remain,

Fraternally yours,
D. F. FEATHERSTON,
Sec'y-Treas."

RDQ157. Now this plaintiff's Exhibit 16 is the

paper you received from the Joint Arbitration Board, is it not? A. Yes.

RDQ168. You received it through the mails in the ordinary course of business? A. Yes.

RDQ169. Now I show you another paper purporting to be signed by D. F. Featherston, and ask you whether you received that through the mails in the ordinary course of business? A. We did.

RDQ170. And that bears the signature of the same Featherston to whom you referred in your testimony? A. It does.

RDQ171. Or his stamp? A. Or his stamp. 1628

RDQ172. And it is the same signature or stamp of various communications received by your association and replied to at the address given above?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, and not the best proof.

A. It is.

RDQ173. And these communications of this character signed with this same signature, were treated by your association as official communications of the Joint District Council? 1629

Mr. Beattie: Same objection.

A. They were.

Mr. Merritt: I will offer that in evidence as "Complainants' Exhibit 17."

Mr. Beattie: Objected to as too remote, incompetent, irrelevant and immaterial; not the best evidence, and not referring to anyone.

Mr. Mayer: Same objection.

1630 John McClurg for Complainant—Re-direct.

"Letter-head Joint District Council.

New York, Sept. 27th, 1907.

Master Carpenters' Association,
Robert Christie, Jr.
122 West 29th St., City.

Gentlemen:—

Owing to information received at this office, certain firms now on the unfair list and others are contemplating to Unionize under some Wood Workers' Union.

We wish to call your attention to the fact
1631 that this will not by any means take such firms off the unfair list.

To be fair in this matter, we hold that none of those unfair firms should be recognized as "fair" unless approved of by the Joint District Council.

Yours respectfully,
D. F. Featherston,
Sec'y-Treas."

RDQ174. I will show you another communication of the same character bearing the stamp or signature of D. F. Featherston. I will ask you if you
1632 received that letter in the same way? A. We did.

RDQ175. And treated it in the same way? A. We did.

Mr. Merritt: I will offer that letter in evidence as "Complainants' Exhibit 18."

Mr. Beattie: I object to this as not referring to the plaintiffs, too remote, incompetent, irrelevant and immaterial, and not properly proven.

John McClurg for Complainant—Re-direct. 1633

COMPLAINANTS' EXHIBIT 18.

"Letter-head Joint District Council.

New York, Apr. 10th, 1907.

Mr. Robert Christie, Jr.,
122 West 29th St.,
City.

Dear Sir:

Your communication of the 9th inst. stating that the Master Carpenters' Association decline to recognize the firms named by me as 1634
unfair, was received. In answer will state that this Organization proposes to hold the Master Carpenters to the letter of the Law in the Arbitration Plan, which states that they must employ Union men, and if you know where we are putting up the material of these non-union firms it is up to you to say so.

We again notify you that the firms sent, one and all are unfair, and that our Brothers are not working for them. We insist upon you complying with the Arbitration Plan.

Such tactics as have been adopted by your Association in regard to unfair trim and the 1635
employment of non-union men will not be tolerated by this Organization any longer.

Trusting the above will be satisfactory, I remain,

Fraternally yours,
D. F. Featherston,
Sec'y-Treas."

RDQ176. And I will ask you if communications as to the concerns declared unfair by the Joint Dis-

trict Council which you in turn transmitted to your members, were of this same character?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial and not the best proof.

A. They were.

RDQ177. And this Exhibit 16 is one of them, for instance?

Mr. Beattie: Same objection.

1637 A. It is.

RDQ178. As far as you can tell, the signature of each one of these is the same, is it not? A. It is.

RDQ179. And all of these communications were received on or about the dates at which they bear, or shortly thereafter? A. They were.

RDQ180. And they were found by you in the files of your association? A. Yes.

RDQ181. And that is, the regular files where you keep your correspondence? A. Yes.

Mr. Merritt: With the consent of the parties, I will have copies of these written into the record, rather than keep the originals.

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By Mr. Mayer—

RXQ182. The expression here has been used "important building operations." By the expression "important building operations" do you mean such operations as the Bankers Trust Company, which is now being erected by one of the defendants here, or the Municipal Building, which is being erected by another of the defendants, at Chambers Street; is that what you mean? A. Yes.

RXQ183. Or such operations as the George A. Fuller Company conduct, such as the Pennsylvania Terminal? A. Yes.

RXQ184. And those large operations, when compared with the total carpentry operations in Manhattan, are in the vast minority? A. Oh, yes.

RXQ185. The members of the Master Carpenters' Association do a minority of the work in the City of New York in the carpentry line? A. Of course.

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RXQ186. On the Island of Manhattan? A. I understand that you are talking of large operations?

RXQ187. No; of the total building operations in the Borough of Manhattan; the members of the Master Carpenters' Association do a vast minority of it? A. I think they do; yes, the work.

By Mr. Merritt—

RDQ187. Do you mean to testify that the members of your association do not do anywhere near half of the business being done on the Island of Manhattan? A. Well, I would not like to say as to a specific amount. I understood—it is evident that I have been wrong all through,—I understood that what you meant was large operations, that is, that it was large operations, and there I say, I believe that the Master Carpenters' Association does a very large part of it.

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RDQ188. But you have testified here that they did a vast minority of the total work on the Island of Manhattan? A. Yes.

RDQ139. Now I want to put it in this way, to

make it sure that you understand the question: Would you be willing to testify that the members of your association did not do anywhere near half of the entire work being done in the Island of Manhattan? A. I would testify that they would not do more than half.

RDQ190. But you have not any knowledge which would make you willing to testify that they did not do anywhere near half? A. No.

By Mr. Mayer—

1643 RXQ191. But not more than half? A. I don't think they do.

By Mr. Merritt—

RDQ192. This is all an estimate in your mind? A. Yes; but I want to be put right in this, that I considered you were speaking of large operations all the time.

RDQ193. As I understand it, you are willing to testify that they do not do more than half of the entire operations on the Island of Manhattan? A. I would say that; yes.

1644 RDQ194. But you would not be willing to testify but that they did nearly half of the entire balance on the Island of Manhattan? A. Yes. Somewhere near it.

Re-cross examination by Mr. Beattie—

RXQ195. Now, Mr. McClurg, did not the Master Carpenters' Association decline to accept these so-called unfair lists of the District Council sent out in 1907 and for the two years prior thereto? A. They did decline to accept the list; yes.

1645

RXQ196. Declined to accept the statements of the District Council that the firms stated in those lists were unfair? A. They did.

RXQ197. Would you have any objection to producing here your communication of April 7 on that subject, your answer to the letter purporting to be of Featherston of April 10, 1907; your answer to their letter of September 27, 1907, and your answer to their letter of July 20, 1907? A. No.

By Mr. Merritt—

1646

RDQ198. After the Master Carpenters refused to recognize this list, was that the termination of this whole procedure concerning this unfair list? A. I think it was.

RDQ199. And that was along September, 1907, was it not? A. Yes; that is about the right time.

(Cross-examination suspended until the production of letters asked for.)

Adjourned to Thursday, December 7, 1911, 10:30 A. M.

1647

1648 Thomas C. Edmonds for Complainant—Direct.

PAINE vs. NEAL.

Hearing resumed December 7, 1911, 10:30 A. M.

APPEARANCES:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. MALONEY,
and
MR. BEATTIE,
MR. MAYER,
MR. WHITTAKER.

1649

Witness McClurg present. No examination. Adjourned to 2 P. M.

Letters produced.

PAINE vs. NEAL.

Hearing resumed 2:15 P. M.

Same appearances.

THOMAS C. EDMONDS, a witness called on behalf
1650 of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Thomas C. Edmonds.

Q2. And your age? A. Forty-three.

Q3. Do you live in New York? A. I live in White Plains, Westchester County, New York.

Q4. Do you do business in New York? A. Yes, sir.

1651

Q5. What is that business? A. Window glass, paints, oils, varnishes, glazed windows.

Q6. And sash. A. Yes; glazed windows.

Q7. That includes the sash that goes around the windows? A. Yes.

Q8. What do you mean by glazed windows? A. Windows in that condition, with the glass glazed in the sash.

Q9. What is glazing? A. Pinning them in and putting putty around the edges.

Q10. Pinning it into the sash? A. Yes.

1652

Q11. You do business under the name of Thomas C. Edmonds Company, a corporation? A. Yes, sir.

Q12. And what office do you hold in the corporation? A. President and treasurer.

Q13. How long have you held that office? A. Since the 9th of January.

Q14. Well, prior to that time, what connection have you had with the company? A. I was the secretary and general manager.

Q15. Where is the principal place of business of the company? A. 1,826-8 Park Avenue.

Q16. And how long has it been situated there? A. At that address.

1653

Q17. Yes. A. About 12 to 13 years.

Q18. Well, now, you have had general management of that concern for a number of years past? A. Yes, sir.

Q19. How many? A. Since it was organized.

Q20. Will you give the date of its organization? A. Incorporated February 11, 1901. Prior to that time it was a co-partnership.

Q21. To what class of customers do you sell? A. Painters——

1654 Thomas C. Edmonds for Complainant—Direct.

Q22. To whom do you sell your glazed windows? A. Painters, stores, builders, manufacturers.

Q23. Is most of your business in glazed windows with manufacturers and builders? A. Yes. Most of my business is in glazed windows with builders.

Q24. You have made a written contract with the United Brotherhood of Carpenters and its Joint District Council concerning the purchase of non-unoin sash, have you not? A. Yes, sir.

Q25. That is the contract which I show you? A. Yes, sir.

1655

Mr. Merritt: Now I will offer that contract in evidence as "Complainants Exhibit 19."

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants as to the issues here.

Mr. Merritt: With the permission of the parties, I will substitute a copy:

EXHIBIT 19.

ARTICLES OF AGREEMENT.

1656

This agreement entered into this 12 day of January, 1911, between the party of the first part, Thos. C. Edmonds & Co. New York City, purchasers and distributers of window sash, and the party of the second part, International Union, United Brotherhood of Carpenters & Joiners of America, General Office Indianapolis, Indiana, and its subordinate Union known as Joint District Council of New York, N. Y.

Thomas C. Edmonds for Complainant—Direct. 1657

ARTICLE #1.

The party of the first part hearby agrees as purchasers of window sash that they will not handle or sell any prison made sash, or any sash over 1⅜" thick that have not been manufactured in Shops having trade agreements with the party of the second part, the United Brotherhood of Carpenters and Joiners of America, based upon agreements that exist in New York City.

1658

ARTICLE #2.

The party of the first part further agrees that they shall not, as purchasers and distributors, have the above mentioned material sub-contracted for through any firm or corporation not under agreement with the party of the second part.

ARTICLE #3.

Party of the first part further agrees that they will furnish a list of all contracts made for sash over 1⅜" thick to the Joint District Council #142 East 59 St., New York City, stating the manufacturer from whom such purchase has been made.

1659

ARTICLE #4.

Party of the second part agrees for its members to erect all material sold by parties of the first part according to the above conditions, and the party of the second part further agrees that none of the members of their organization

1660 Thomas C. Edmonds for Complainant—Direct.

shall install or erect any window sash made in prisons, or any window sash over 1⅜" thick made in non-union factories.

In case of the breach of the terms or any of the terms of this Agreement, by the party of the first part, then the party of the first part forfeits and agrees to pay as liquidated damages to the parties of the second part, the sum of Two Thousand Five Hundred Dollars, ($2500.)

In witness whereof the party of the first part
1661 has caused these presents to be signed by its proper officer and its corporate seal to be affixed and the parties of the second part have caused these presents to be signed by their proper officer empowered to execute the same.

If the Courts of the State or City of New York shall decide that any clause of this Agreement should be unconstitutional or illegal, it shall not invalidate the other portions of this Agreement, but such clause or clauses shall be stricken out.

Witness:

Harry L. Cook

1662 General Organizer U. B.

John Rice, Gen. Org. U. B.

for party of the second part

Thos. C. Edmonds & Co.,

By Thos. C. Edmonds Secy

For the party of the first part."

Q26. That is your signature to that contract? A. Yes, sir.

Q27. I see it is also signed by Harry L. Cook, General Organizer, United Brotherhood, and John

 1663

Rice, General Organizer of the United Brotherhood? A. Yes, sir.

Q28. Did you see these men sign it? A. I think I did.

Q29. And was it signed on or about the 12th day of January, 1911, the date which it bears? A. I could not say if it was exactly on that date, but it was about that time.

Q30. Prior to the execution of tha tcontract, did you do business with any of the plaintiffs in this suit?

1664

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

Mr. Maloney: Whatever objections are made by the defendants, it is understood that they are made jointly and severally, so that the parties may have the several benefit as well as the joint benefit of such exceptions.

Mr. Merritt: I assent to that.

A. Yes, sir; some of them.

Q31. Which ones? A. Paine Lumber Company; Gould Manufacturing Company.

Q32. You have never done business with the 1665
others? A. I had some business some time ago with R. McMillen Co., but I could not say what it was.

Q33. Did you ever do business with the Foster Lotham Co? A. I could not answer that without referring to the records.

Q34. Or Lotham Cypress Company? A. I don't recollect that; no, sir.

Q35. Haven't you done business with Mr. Waters, who represented one of those concerns, or

1666 don't you recall that? A. I don't recall Mr. Waters.

Q36. During what period of time have you done business with the Paine Lumber Company? A. We have made purchases from them at different times covering a period of several years.

Q37. You made no purchases from either the Paine Lumber Company or the Gould Manufacturing Company since the execution of this agreement? A. I have made purchases from them, yes.

Q38. Made any purchases of them of any other
1667 kind of material, other than 1⅜" sash? A. No, not for this market. We sometimes purchase for out of town markets and other localities; I have purchased other than 1⅜" sash for shipment out of the city, but not for the city.

Q39. And you have not purchased anything other than 1⅜" sash from either of these concerns for this market since the execution of this agreement? A. No, sir.

Q40. What do you mean, for this market—just the Island of Manhattan? A. The City of New York.

Q41. The City of Greater New York, including
1668 Brooklyn? A. We do not do any business in Brooklyn.

Q42. Do you include Richmond and the Bronx? A. We include the Bronx and Manhattan.

Q43. Did you do any business with the Paine Lumber Company in 1910? A. I think so, but I could not answer it correctly without referring to the books.

Q44. And you have bought from them, however, from time to time, for a period of years prior to the execution of this agreement? A. Yes, sir.

 1669

Q45. And were your purchases in 1⅜" sash or 1¾" sash? A. Both.

Q46. You could not approximate the amount of them without your books? A. No, sir.

Q47. Now in reference to the Gould Manufacturing Company, you have dealt with them for a period of years? A. Yes, sir.

Q48. Were you dealing with them at the time that you executed this agreement? A. Yes, sir.

Q49. Were you dealing with the Paine Lumber Company at the time you executed this agreement? A. I don't know, without referring to the books. 1670

Q50. Could you give, approximately, the amount of business you did with the Gould Manufacturing Company? A. $500 or $600 a month.

Q51. Would that apply to the year preceding the execution of this agreement, in general numbers? A. I should think so. I am only guessing at it. I know it is something like that.

Q52. Can you approximate what proportion of that would be in 1⅜" sash? A. Approximately, half of it.

Q53. Now I will ask you to state the conditions or circumstances which led you to sign this agreement, Ex. 19? 1671

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. We had sold to several of our customers the glazed windows for their buildings, which consisted of a number of 1¾" sash, and our customers informed us that they could not use them as the labor would not handle them.

1672

Mr. Mayer: I move to strike the answer of the witness out as hearsay, incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

Q54. Were these customers all builders?

Mr. Mayer: Same objection.

Mr. Beattie: Same objection.

A. Yes.

Q55. And what happened next? A. They would not pay us, they could not go ahead with their work.

1673

Mr. Mayer: I move to strike out the answer.

Q56. As far as you are able to recall it, will you give us the story which led up to the signing of this contract? Whom did you see next concerning it? What did you do to bring this about, or what did someone else do? A. I made inquiry from different ones that I met in the trade as to what was the cause of the trouble, and inquired of the builders, and they informed me that they would strike on the jobs, could not handle their goods.

1674

Mr. Mayer: I move to strike out the answer as incompetent, irrelevant and immaterial; wholly improper.

Mr. Beattie: Same motion.

Q57. Will you go right on? A. If you will ask me the questions to answer.

Q58. What steps did you take to bring about a settlement of the matter?

1675

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. We inquired from some of the woodworking trade how we could arrange to sell our goods and a representative of the labor union who had called before, called again.

Mr. Mayer: I move to strike out as incompetent, irrelevant and immaterial; hearsay.

Q59. When you say "we" had, you refer to the manufacturing woodworkers? A. Yes.

1676

Q60. And whom did you see or make inquiries of? A. I met Mr. O'Neill of the Empire City Woodworking Company.

Q61. And you inquired of him what you could do to settle the matter? A. Yes, sir.

Q62. What did he say?

Mr. Beattie: Same objection; incompetent, irrelevant and immaterial.

A. He said I would have to get in communication with the representatives of the Carpenters' Union.

Q63. Did he arrange for such a meeting for you, or not?

1677

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. I don't know whether he arranged for it or not, but I met a representative of the union, who presented this agreement.

Q64. Did you have an appointment to meet him? A. Yes, sir.

Q65. Do you recall who made the appointment

for you? A. I met the representative at Mr. O'Neill's office. I don't recollect who made the appointment.

Q66. The first time you met him in connection with this particular trouble was at Mr. O'Neill's office? A. I don't recollect whether that was the first time or not.

Q67. Did you meet him by appointment at Mr. O'Neill's office, but you don't know who made the appointment? A. No, sir.

Q68. Don't you know whether or not you saw
1679 this representative of the labor union and made the appointment directly with him? A. I forget. I did not make particular note of that detail at that time.

Q69. As far as you recall, you may have seen him and made this appointment with him in advance of that time? A. Perhaps so, I don't recollect just what the circumstances were.

Q70. Was Mr. Rice the man whom you met from the labor union? A. I met Mr. Rice at or about that time.

Q71. And who was it that you met at Mr. O'Neill's office? A. I met Mr. Cook.

1680 Q72. Mr. Rice was not present then? A. I don't think he was, I am not just sure about that, but I don't think he was.

Q73. Was it at this meeting that the agreement was presented? A. It was discussed at that meeting. I don't think it was signed at that time.

Q74. Was Mr. O'Neill present during the discussion? A. Part of it.

Q75. Was it suggested at this meeting that you enter into an agreement not to buy this non-union sash over 1⅜" thick?

 1681

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, seeking to put words in the witness's mouth.

Mr. Merritt: I don't mean to lead this witness, if that is your objection, and I will stay here as long as it is necessary, to try and exhaust his recollection and get at it by degrees.

Mr. Mayer: He ought to tell what the conversation is.

Mr. Merritt: Then I will withdraw the question.

1682

Q76. Give the conversation which took place at that time, as far as you recall it? A. I inquired of Mr. Cook as to what could be done, what we could do to relieve the situation, and he stated that we might enter into an agreement. He stated that we could enter into an agreement to purchase union made 1¾" sash.

Q77. Do you recall anything more that was said at that meeting? A. Well, that was the sense of it. There was more or less discussion on the subject, but that was the sense of it. I cannot recollect word for word. That was over a year ago.

Q78. Is that all you recall of the substance of it? 1682
A. Yes.

Q79. Was there anything said at that time concerning a clause to forfeit $2,500 if you violated the agreement? A. I cannot say if the agreement was presented for examination at that time, or whether it was afterwards. The matter of the agreement was presented, and of course, the different clauses were discussed that were embodied in the agreement.

Q80. Do you remember at this meeting, before

the agreement was presented, that the clause was discussed? A. I don't recollect, whether that was discussed or not.

Q81. Do you recall who it was that suggested this clause concerning the forfeiture of $2,500? A. It was presented to us by Mr. Cook. We did not suggest it.

Q82. And that was the first time that it was suggested to you? A. Yes, sir.

Q83. Was there anyone else present at this meeting concerning which you have testified? A. I
1685 think Mr. Arnstein was present nearly all the time.

Q84. That is, Moritz Arnstein, one of your competitors? A. Yes, sir.

Q85. Was this Arnstein present at the time that you executed this agreement? A. I think not. I forget now whether he was or not.

Q86. Did you meet at Mr. O'Neill's office on more than one occasion? A. To the best of my recollection, I was there only once.

Q87. What led you to make inquiries of the manufacturing woodworkers concerning this matter? A. They were in the woodworking line, and it was a new proposition and I was seeking information.
1686 Q88. Do you know where this agreement was executed? A. In our office.

Q89. Who was present then, that you recall? A. Why, I am not sure whether Mr. Arnstein was there at the time or not. He was at our office on one or two occasions; he may have been there at that time; I don't recollect.

Q90. Mr. Cook and Mr. Rice were both there? A. Mr. Cook was there. I don't know whether Mr. Rice was there at that time or not.

Q91. This Mr. Cook and Mr. Rice to whom you

refer in your testimony are the same men who signed this agreement, are they not? A. Yes, sir.

Q92. And you don't know whether Mr. Rice was there on the date on which you executed the agreement, or whether he executed the agreement at that time? A. I think he was, from the fact that he signed it.

Q93. How many of your customers had you heard from to the effect that they could not use the material which you had sold them at this time?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial. 1688

A. Why, approximately, six or eight.

Q94. And could you tell me approximately how much business you had under contract with these customers at that time? A. Perhaps $10,000.

Q95. Prior to this time, had you had any trouble with the use of non-union sash of any kind? A. No, sir.

Q96. Had any customers of yours complained to you about the use of non-union sash? A. No, sir.

Q97. How much of the sash which you purchased was non-union up to that time? A. Most of it, I guess. 1689

Q98. Did you buy practically all of your sash from the Gould Manufacturing Company at that time? A. We purchased a large portion of it, but we also had made other purchases from other factories.

Q99. And they were also non-union or open shop were purchasing over 1⅜" thick? A. I should say factories? A. Most of them were, yes.

Q100. And was at least half of this sash that you about that proportion.

1690 Thomas C. Edmonds for Complainant—Direct.

Q101. I will ask you whether the 1⅜"sash which you now purchase is non-union or union? A. Non-union.

Q102. And the sash over 1⅜" thick is now union? A. Yes, sir.

Q103. But you do purchase some sash over 1⅜" thick from non-union concerns, where it is to be used outside of [illegible] market? A. Yes, sir.

Q104. All of these six or eight customers that complained to you were builders, you say? A. Yes, sir.

1691 Q105. Will you tell me just what the complaint was?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; hearsay.

Mr. Beattie: Same objection.

A. They could not hang our windows; the carpenters refused to handle them.

Q106. How long after these complaints was it before you signed this agreement? A. Oh, I should say, approximately a month or six weeks.

Q107. Did you hear from these customers from
1692 time to time during that period? A. Yes, sir.

Q108. With the same complaints?

Mr. Mayer: Same objection.

A. Yes, sir.

Q109. After this agreement was executed, did you have any further difficulties with these customers? A. No, sir.

Q110. Did any of them state to you that the sash had been hung? A. Yes, sir.

Q111. Did you have any other non-union sash on

hand besides that which you had sold to these various customers? A. No, sir.

Q112. I will ask you whether or not it was understood and agreed between you and Messrs. Rice and Cook, that if you signed this agreement, the sash which you had already sold should be hung? A. Verbally, yes.

Q113. That was not put into the original agreement? A. No, sir.

Q114. Just what did these gentlemen state to you in that connection? A. That after we had executed the agreement, we would not have any further trouble. 1694

Q115. Do you remember anything else that they stated? A. That was the substance of it.

Q116. State whether or not they told you that they would direct the carpenters to hang the sash? A. I don't recollect that they made that statement. It was a general statement that after we signed the agreement we would have no further trouble.

Q117. Was that statement made in connection with the various jobs which you had already sold the sash for? A. Yes, sir.

Q118. And do I understand that you signed this agreement on condition that there would not be any trouble with the material you had on hand and the contracts outstanding? A. Yes, sir. 1695

Q119. Did this Mr. Cook and this Mr. Rice both represent themselves to be representatives of the United Brotherhood of Carpenters?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. Yes.

1696 Thomas C. Edmonds for Complainant—Direct.

Q120. You stated that prior to 1911 about half of your purchases in sash, generally speaking, would be 1¾" and about half 1⅜"? A. Yes, sir.

Q121. Is that true of to-day? A. No, sir.

Q122. What would be the proportion now? Would it be a larger proportion of 1⅜"? A. No, much less.

Q123. Then to-day, a large proportion of your business in sash, is 1¾" sash? A. No, 1⅜".

Q124. What is the total amount of business you do in sash? A. You mean now?

1697 Q125. At the time you executed this contract. What was it approximately in 1910? A. Approximately $100,000, sometimes it is more than that, sometimes less. You mean just in sash, or the glazed window?

Q126. Just in sash alone? A. We never sell them alone, we always sell them glazed, the glass in it. I could not say how many sash we sell. I would have to look at my books and find out how much we purchased, then I could tell.

Q127. You testified that the greater amount of your purchases in sash came from the Gould Man-
1698 ufacturing Company during the year preceding this contract, did you not? A. I think I did; yes, sir.

Q128. Did you see any other representatives of the union concerning this matter? A. Why, I met a man one day who I understood was identified with the Carpenters' Union, but I don't recollect his name.

Q129. Did you go around to any of these buildings where any of your sash was being used at the time of the trouble? A. I did not go personally; no, sir; I did not.

 1699

Cross-examination by Mr. Beattie—

XQ130. Were any of these six or eight builders that complained to you that the carpenters would not erect your goods, your sash, members of the Master Carpenters' Association? A. I don't know.

XQ131. You knew the Master Carpenters' Association had agreed among themselves not to buy non-union material, didn't you, at that time? A. No, sir; I had no relation with anyone whom I knew was identified with any association. We had no reason to make that inquiry.

1700

XQ132. What are the names of these six to eight men that said they could not handle your sash? A. One was a corporation, identified with Bing & Bing. They have two or three corporations—I don't know whether it was the Speedwell or one of the others; I would have to look at my books to say. It may have been, but it may have been the Edendale—they had several—I have dealt with these different corporations, and it is always Bing & Bing back of it.

XQ133. Were these apartment houses? A. Yes, sir.

XQ134. Was it Bing or Bing that you saw about this? A. I did not see any of them. 1701

XQ135. Who was it told you? A. I don't know; somebody over the telephone.

XQ136. And you don't know whether it was a member of the firm or an officer, you don't know who it was spoke to you about it? A. No, sir.

XQ137. Well, did he say that that was a union concern, that they had agreed with the other builders not to handle non-union material, or anything to that effect? A. No, sir.

1702 Thomas C. Edmonds for Complainant—Cross.

XQ138. Well, now, give us the name of any of the other six or eight.

A. There was a Seth Low Construction Company.

XQ139. Who was it spoke to you, Seth or somebody else? A. Another telephone message; I don't know who it was; the superintendent, I presume.

XQ140. You don't know who spoke to you? A. No, sir.

XQ141. Didn't you know that the Seth Low Construction Company was a member of the Master
1703 Carpenters' Association?

Mr. Merritt: I object, as it does not appear that they were members.

A. No, sir.

XQ142. Did not the party that spoke to you over the telephone tell you that the Seth Low Construction Company had entered into an agreement with other master carpenters not to buy non-union material? A. No, sir; I never heard anything about that.

XQ143. Name some of the others of the six or
1704 seven? A. I am going from memory, and my recollection is, that one of the others was the West End Construction Company. I think that is it. I never heard that any of these apartment house builders were members of the Master Carpenters' Association; I never heard of such a thing.

XQ144. Who is it you spoke to, of the West End Construction Company? A. That was another telephone message; I don't know.

XQ145. Did the party that spoke to you over the 'phone there, say anything about that concern hav-

ing made an agreement not to handle non-union material? A. No, sir.

XQ146. Let us see who the other people were? A. I can't give you any more names without referring to the record. I am going entirely by memory.

XQ147. You are testifying just in a general way? A. Yes.

XQ148. You cannot identify any of these people that spoke to you about this matter? A. I did not see any of them personally.

1705

1706

XQ149. So when you say that they said that the carpenters would not handle this non-union material, you are simply referring to conversations over the 'phone with people whose names you do not recall, or do not know? A. And the information from my representative.

XQ150. Well, the conversations that you had with these members that you testified to to Mr. Merritt did not include your representative? A. I don't know the gentleman's name who was on the 'phone.

1707

XQ151. In any of the cases of those six to eight builders that you have previously testified? A. I may have known it at the time, but I could not tell you what it is now.

XQ152. Do you know that there is in existence such an association as the Master Carpenters' Association? A. Only heard of it; I don't know anything about it, further than that.

XQ153. Is your business mainly among apartment houses? A. Yes, sir.

XQ154. And you say that you don't know of any of the members of the Master Carpenters' Associa-

tion carrying on any building operations as to apartment houses? A. No, sir.

XQ150. And apartment house building constitutes a very large part of the building operations in Manhattan, doesn't it? A. Those that we have business relations with; yes, sir.

XQ156. Well, as a whole, building of apartment houses is a very large part of the building business of Manhattan, isn't it?

Mr. Merritt: I object, unless it appears that
1709 this witness is qualified to testify on that point.

A. I believe that is a fact; I could not say.

XQ157. You ascertain, to some extent, about such building operations by soliciting orders to supply them with sash? A. It is our specialty to look for apartment house work.

XQ158. About what proportion of your business is now 1⅜" sash or less? A. I should say 80%. There is not any less; 1⅜ is the smallest sash we handle.

XQ159. Then your business now is 80% of 1⅜"
1710 sash and 20% of sash of greater thickness? A. Approximately; yes, sir.

XQ160. And as to 80% of all the sash you handle, there is no trouble from any builders or carpenters in connection therewith? A. No, sir.

XQ161. Now are you buying all of this 80% of your sash now from the Gould Manufacturing Company? A. Not all of it; no, sir.

XQ162. Well, what proportion are you buying from them now? A. The major part of it, I should say.

XQ163. You mean, more than half? A. Yes, sir.

XQ164. Well, how much were you buying of the 1⅜" sash from the Gould people a year ago? A. I cannot answer that without records.

XQ165. I know, not accurately, but in a general way? A. Why, we have made the major part of our purchases from the Gould people during the last couple of years, I should say.

XQ166. Your business with the Gould people has increased largely in 1⅜" sash since April last, hasn't it? A. Over a year ago?

XQ167. No, last April? A. No, it has not in- 1712
creased, because the volume of our business is less this year.

XQ168. But I am confining the question to 1⅜"? A. I am referring to 1⅜".

XQ169. You mean, the whole volume of your business has decreased? A. Yes, sir.

XQ170. Well, proportionately to the amount of business you do, your business with the Gould Manufacturing Company has increased in 1⅜" sash since April of this year? A. I could not answer that question without looking it up.

XQ171. Well, who do you buy the other 40% of 1713
your 1⅜" sash from now? A. We have bought it from Foster Lotham; we have bought some from Bailey in Long Island, those that we are in a hurry for; make some purchases at Rochester.

XQ172. It is all non-union, all of the 80%? A. No, the Rochester purchases are made of a union shop; and I think Bailey is a union shop, I am not sure.

XQ173. Do you buy 1⅜" from Bailey? A. Yes.

XQ174. But you are not obliged to buy union stuff in 1⅜" by the agreement in evidence or other-

wise? A. Oh, no. We do it sometimes to save time. It is quite a distance to bring all the stuff from Wisconsin, and there are times when we are in a hurry and buy them here.

XQ175. Do you pay more for the goods you buy here? A. Yes.

XQ176. About what per cent. of difference on sash? A. 20% to 25%.

XQ177. 25%? A. I should say so, approximately 20%. I don't know unless I look it up. I can't tell.

1715 XQ178. You don't know whether you deal with any member of the Master Carpenters' Association or not, is that right? A. I don't know sir, I don't come in contact with the question.

By Mr. Maloney—

XQ179. This agreement that has been offered in evidence referred only to the use of material in Manhattan and Bronx, so far as you are concerned, did it not? A. Yes, sir.

XQ180. And you do a large business in other places outside of those two places, Manhattan and

1716 Bronx? A. Not a large business in that line; no, sir.

XQ181. But in connection with your other business, you buy material from other so-called non-union shops? A. Yes, sir.

XQ182. And the agreement has no application to that? A. No, sir.

XQ183. I mean, business other than the Manhattan and Bronx business? A. Yes.

XQ184. Do you know Mr. Waters of the Foster Lotham Co., or otherwise known as the Lotham Cy-

press Company? A. I don't call the gentleman to mind; no, sir. 1717

XQ185. His name is T. B. Waters. He lives in Oshkosh. Would that refresh your recollection? A. I don't recall the man; no, sir.

XQ186. Well, Mr. Waters was examined as a witness in this case on behalf of the Lotham Cypress Company, which is one of the complainants, and he said that he made a visit to you in June, 1911, and asked you to purchase some goods from him. Do you recall that circumstance? A. I don't call it to mind; no, sir. 1718

XQ187. He says: "Mr. Edmonds, Mr. T. C. Edmonds stated he could not very well use our goods because they might have trouble getting them accepted on jobs for the reason they were not made in a union shop." Do you recall ever having such a conversation with that Mr. Waters? A. I have made that statement to someone, I don't know who it was.

XQ188. Well, at or about the same time, he stated that he showed you a copy of this injunction in this particular case, and he said: "I told him I thought that would be protection." He 1719 seemed to object to the fact that we were a non-union shop. I said, "Here is an injunction that ought to put you on safe ground." Do you remember that? A. I don't remember that, no. If I may say, so that you will properly understand my position: I have a wholesale business, men on the road, entirely different from the sash and glass business. I have assistants in the sash and glass, and they keep track of all this detail for me. I have two or three men who keep track of different departments

and I don't charge my memory with every detail; I can't do it.

XQ189. Well, this Mr. Waters refers to a conversation with you, mentions you by name? A. In answer to that, I say that anybody who wants to sell any sash to our concern, all that ever gets to me is the question of price, and that is generally brought to me by one of my assistants. He probably talked to someone else.

XQ190. Did you understand that this man Waters was seeking to compel you to purchase the
1721 Lotham Cypress Co. goods because he had an injunction? A. I don't recollect the circumstance at all.

XQ191. You don't feel yourself under any obligation to buy goods from the Lotham Cypress Company because they have an injunction to enjoin and restrain the men, defendants, the workmen of the unions, from refusing to work on it? A. I would not like to answer that question in a general way, without getting advice on it.

XQ192. Do you understand that the court in this case has made any injunction which compels you to buy the material of the Lotham Cypress
1722 Company? A. I did not understand it that way; no, sir.

XQ193. Your understanding was, that it merely compelled the men to work on the material? A. I did not know anything about it; I have not had it brought to my attention.

XQ194. He says he showed you the injunction. A. I don't recollect it.

XQ195. You don't recall that? A. No, sir. The nearest recollection I have is, that somebody came in there and said something about an injunction

and made some general statements and went out, but I did not engage in any conversation with him at all that I recollect. I was busy with other things.

XQ196. Well, you never knew or understood that you were under any compulsion from this court injunction to buy the Lotham Cypress Company's goods? A. No, I have not known anything about it.

XQ197. Now these people who communicated with you over the telephone or through your representatives, in substance, to the effect that they could not use this so-called non-union material, were customers of yours, were they? A. Yes, sir. 1724

XQ198. And did you understand from them that in the business which they were doing, they required union material? A. They said they could not handle anything else.

XQ199. And did they say they wanted union material fro myou? A. They already had non-union, they did not know what to do.

XQ200. Didn't these people want you to supply them also with union material which would be satisfactory to the men who were working with them? A. They did not make any such demand, because the contract would not cover such a point. 1725

XQ201. I was not claiming that they made any demand. Didn't they wish you to supply them with material that would be satisfactory to the men working with them? A. I can't make any different answer.

XQ202. You had nothing to do with their employees at all, did you? A. No, sir.

XQ203. You understood that in order to get on with their employees, they would have to have union material, is that right? A. They said that

they could not hang the sash that we delivered for the reason that they were non-union.

XQ204. Now you were desirous of satisfying the demands and wishes of your own customers, were you not? A. We were interested more than anything else in getting our money for what we had delivered at that time.

XQ205. Were all the contracts filled? A. I think so.

XQ206. Did you continue to deal with these same customers and others at or about the time
1727 you made this agreement which has been offered in evidence? A. Generally speaking, our business for that operation would be closed on delivery of the goods, except for the collection of the money.

XQ207. You continued to supply sash of the character we have been describing, after this agreement was made, with men in the city of New York, the Island of Manhattan, and the Borough of the Bronx? A. Yes, sir.

XQ208. Wasn't it your desire and wish, both at the time that you made that agreement, before you made the agreement, and after you made the agree-
1728 ment, to satisfy the demands of your customers for material of yours which they would buy? A. Yes.

XQ209. Was it not in conformity with your wish to satisfy your customers with material which their men would put up for them, that you executed this agreement? A. Yes, sir.

XQ210. You had no personal interest or financial interest or business interest with the unions or with the Master Carpenters Association or anyone else to gratify? A. No, sir.

XQ211. It was a plain business proposition on

your part to satisfy the wishes and demands of your own customers? A. Yes, sir.

XQ212. In order that you might continue to do business with them? A. Yes, sir.

Mr. Merritt—

RDQ213. And get paid for your contracts outstanding? A. Yes, sir.

By Mr. Maloney—

XQ214. Did any customer of yours refuse to pay for the goods that he had? A. No, we did not get that far.

XQ215. Had you dealt with the Lotham Cypress Company prior to March, 1911? A. I don't recollect whether we had any business relations with them before that or not; my impression was, that we did on one or two occasions make some small purchases.

XQ216. The fact was, that you were a customer of the Gould Manufacturing Company? A. Yes.

By Mr. Mayer—

XQ217. Had you known Mr. O'Neill of the Empire City-Gerard Company before you had this talk with him? A. Yes, sir.

XQ218. A friend of yours? A. Yes, sir.

XQ219. Friendly in a business way? A. Oh, yes.

XQ220. Did you come to see him through your traveling through the channels of trade? A. Yes, sir.

XQ221. To find out what the difficulty was of which your customers were complaining? A. Yes, sir.

XQ222. And Mr. O'Neill met you in a perfectly friendly spirit? A. Oh, yes.

XQ223. Gave you his personal attention? A. Yes, sir.

XQ224. And you discussed the matter with him? You asked him for the benefit of his friendly advice, is that it? A. Yes, sir.

XQ225. And is it anything more than that that he gave you? A. No, sir.

XQ226. Do I put it correctly when I say that he said to you from his knowledge of the trade that it
1733 was a matter between you and the unions? A. Yes, sir.

XQ227. And was it then that you said you would like to take up the matter with the union? A. I think that was the substance of it.

XQ228. Is it your recollection now that you asked him to arrange for such a meeting, or a meeting was held and he offered the use of his offices for that purpose, was that it? A. I think so.

XQ229. And the tranactions that occurred thereafter were entirely between you and the representatives of the union? A. Yes, sir.

XQ230. Mr. O'Neill took no part in that? A.
1734 No, sir.

XQ231. And you had your talk with the union representatives and argued out the matter and then left Mr. O'Neill's office? A. Yes, sir.

XQ232. And there after Mr. O'Neill had nothing further to do with this matter, is that so? A. Yes, sir.

Mr. Merritt—

RDQ233. He was present at the meeting? A.

1735

I have answered that he was present, I think, part of the time; he was in and out of the office.

By Mr. Mayer—

XQ234. He was using his office for his own purposes and was permitting you at the same time to use his office for your conversation with the union? A. That was what occured.

By Mr. Merritt—

RDQ235. Did he take any part in the discussion? A. Not that I recollect.

1736

By Mr. Mayer—

RXQ236. So that it was a friendly matter on his part to let you use his office for your meeting with the union? A. Yes.

By Mr. Merritt—

RDQ237. What were these relations that you had with Mr. O'Neill at this time? A. Friendly relations.

RDQ238. Business relations? A. Why, yes; we have had business relations, we have sold him some goods, and he has sold goods to us.

1737

RDQ239. From time to time? A. Yes.

RDQ240. You still do business with him? A. Yes. I don't know that we are doing any just at the moment, but our relations continue just the same.

By Mr. Mayer—

RXQ241. You have met him socially, also? A.

1738 Thomas C. Edmonds for Complainant—Re-direct.

Oh, yes; we have had lunch together on different occasions and been friends.

RXQ242. Quite a number of years? A. Yes, sir.

By Mr. Merritt—

RDQ243. Now you have observed this contract, you say, since you executed it? A. Yes, sir.

RDQ244. You have had no trouble of this kind since you have executed it? A. No, sir.

RDQ245. Now didn't you discuss with Messrs.
1739 Cook and Rice the actual conditions with which you were confronted? A. Yes. We told him what the conditions were. We didn't have to tell them, they knew.

RDQ246. And did they include a statement in a general way of what your customers had said to you? A. Yes, sir.

RDQ247. And I will ask you whether or not they in any way admitted or what their attitude was, when you stated that the carpenters refused to hang this sash on the various jobs?

Mr. Beattie: Objected to as incompetent,
1740 irrelevant and immaterial.

A. Strike on non-union sash.

RDQ248. They said that? A. Yes. They said that their men would not handle non-union sash, that is the best of my recollection, words to that effect.

RDQ249. Wasn't the fact that you understood that the men on these various jobs would not handle the non-union sash, made the basis of all of your negotiations with Cook and Rice?

Thomas C. Edmonds for Complainant—Re-direct. 1741

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

A. Oh, yes.

RDQ250. How much business do you do outside of Manhattan and the Bronx? A. In sash?

RDQ251. Yes? A. What per cent. of it, you mean?

RDQ252. Is it a large business? A. No, sir; not in sash.

RDQ253. Is the amount of sash which you use or purchase for use outside of Manhattan and the 1742
Bronx very small? A. Yes, sir.

RDQ254. Do you purchase some of that from these plaintiffs? A. Yes, sir.

RDQ255. Why have you stopped dealing with the Gould Manufacturing Company in 1¾" sash?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial; wholly objectionable.

Mr. Mayer: Same objection.

A. Because we can't sell them.

RDQ256. Hasn't your contract anything to do with it? A. Yes. We have been forced into an 1743
agreement which provides that we cannot sell anything but union sash 1¾" thick.

RDQ257. Well, which is the reason, that you have stopped doing business with them—the agreement, or that you cannot sell them?

Mr. Mayer: Objected to.

A. They are both good reasons, I guess.

Mr. Mayer: I move to strike out all the tes-

1744

timony of Mr. Edmonds as given in this case with respect to any conversations with customers with relation to strikes on the jobs or other matters, because it appears now that such testimony is purely hearsay and that the particular conversations were not had with any identified parties, as far as the evidence is concerned.

Mr. Beattie: Same motion.

RDQ258. And it was these various conditions
1745 concerning which you have testified which led you to sign this agreement?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; calling for a conclusion.

A. Yes.

Mr. Merritt: I want to say that these conversations are particularly claimed as bearing upon the state of mind which induced the witness to make this agreement which we claim he was coerced into making.

1746

Adjourned to Thursday and Friday, December 14th and 15th respectively, hearings to commence at 10:30, at Room 1626, Broad-Exchange Building, 25 Broad Street, New York.

Hyman S. Crystal for Complainant—Direct. 1747

PAINE vs. NEAL.

Hearing Thursday, December 14, 1911, 10:55 A. M., at Room 1622, 25 Broad Street, N. Y.

PRESENT:

COMMISSIONER SHIELDS,

WALTER GORDON MERRITT,
For Complainants,

CHARLES MAITLAND BEATTIE,
and 1748
WILLIAM P. MALONEY,
For defendants Neal and others,

EIDLITZ & HULSE,
By Mr. Mayer,
For defendants Gethy and others,

WILLIAM BUTLER,
By Mr. Mayer,
For defendants Murray & Hill and others,

C. J. HARDY,
By F. B. Whittaker,
For defendant James Elgar, Inc., 1749

HYMAN S. CRYSTAL, a witness called on behalf of complainant, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Hyman S. Crystal.

Q2. And your age? A. Twenty-nine.

Q3. What is your business? A. Builder.

Q4. Under what name do you do business? A.

B. Crystal & Son, a corporation.

Q5. And what relation or position do you hold in the corporation? A. Now?

Q6. Yes? A. President.

Q7. How long have you held that office? A. About a month.

Q8. And what office did you hold prior to that? A. Vice-president.

Q9. And how long did you hold that office? A. About two years.

Q10. Where do you conduct your building operations?

1751 A. Our principal office is 527 Fifth Avenue.

Q11. Where do you conduct your building operations? A. At 74-80 Washington Street, and 47-50 West Street——

Q12. You are referring to your present operations? A. Yes.

Q13. But in a general way, where do you do business? A. Borough of Manhattan.

Q14. And do you limit yourself pretty generally to the Borough of Manhattan? A. Yes, sir.

Q15. Do you act as a contractor in any way, or are you simply a builder that sub-contracts all your work? A. A builder that sub-contracts all the

1752 work.

Q16. And you employ no men yourself? A. No, sir; we do not.

Q17. Now you have done business with Parshelsky Brothers in Brooklyn, have you not? A. Yes, sir.

Q18. During what period of time? A. I can't give you the dates, I have not got them with me.

Q19. In a general way, have you done business with them for a number of years? A. No; just one year.

Q20. You were doing business with them or had a contract with them in June, 1911, did you not? A. Yes, sir.

Q21. And what was that concern for?

Mr. Mayer: I object unless the time is fixed in 1911.

A. To furnish sash and glass.

Q22. When was this contract made? A. In the year 1911, I cannot say the date; I don't remember the dates. 1754

Q23. Do you know how early in 1911? A. I do not.

Q24. Now you had some trouble, did you not, concerning the installation of this sash? A. Yes, sir.

Q25. About when did this happen? A. In the month of July, 1911, I should judge.

Q26. Well, now, look at this letter for the purpose of refreshing your recollection, and state when you first had intimation of this trouble. (Witness examines letter.) State as near as you can when this trouble arose? A. Just a week before that date; that would be in the last week in May or the middle 1755 of May.

Q27. Now what happened, as near as you can recall it? A. Why, we did not do anything about the matter until the latter part of the month, that is, the month of June, and they put up the work there without any more trouble.

Mr. Mayer: I object to all testimony as to anything that happened after this suit in March, 1911.

1756

Q28. When and how did it first come to your attention that there was trouble on this account? A. By the carpenters calling our attention—or by the carpenters not working on the sash while doing all other work except the sash.

Q29. Did you see the carpenters yourself? A. No, sir; only the contractor to whom we gave the contract for the work.

Q30. Then the contractor told you this, that the carpenters refused to handle the sash? How did you know that the carpenters refused to handle

1757 the sash? A. By the contractor, the way Salmon Brothers told us, that "we will put them up later." That is the only answer they gave us.

Mr. Beattie: I move that the answer be stricken out.

Mr. Mayer: Same motion.

Q31. You had no conversation with me concerning the testimony you are about to give in this action? A. No, sir.

Q32. Nor with anyone else concerned with this action? A. No, sir; I did not.

1758 Q33. And you are here under a subpoena? A. Yes, sir.

Q34. Did you talk to anyone who represented himself as a delegate of the carpenters concerning this matter? A. Yes, sir.

Q35. When was that—after you had learned that the carpenters would not handle the sash, or before? A. After.

Q36. How long after? A. I should judge a couple of weeks, as far as I can remember.

Q37. And whom did you see that represented

himself to come from the carpenters? A. From the union, you mean?

Q38. Yes? A. Why, a delegate.

Q39. What was his name? A. I don't remember.

Mr. Maloney: I understand that this is some incident that occurred after the commencement of this action. I want to give notice now that we object to any testimony as to incidents that took place after this action, particularly on the ground that it is incompetent, irrelevant and immaterial, and not set forth in the pleadings, 1760 and upon the ground that this action is based upon the theory that it is a boycott for the men to refuse to work upon the material of the plaintiffs, which interferes with their business and trade, and that as it is framed, it does not purport to show that they single out any particular individual, but that since the commencement of this action there has been an attempt to create a case showing that the defendants single out and make attack upon individual plaintiffs, which is no part of this case.

1761

Q40. Would you know his name if you heard it? Was the name Alexander Kelso? A. Yes, sir.

Q41. Where did you see him first? A. At the building.

Q42. Where was this building? A. 454-6 Riverside Drive.

Q43. What was its condition at the time that you learned the men would not handle the sash? A. About 70% completed.

44. Did you ask Kelso to come to the building

1762

and meet you there? A. Why, no, sir; he came to see the contractor, as I think now.

Q45. But your meeting with him there was not by appointment? A. No, sir.

Q46. What did he say to you?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, not binding on any of the defendants.

Mr. Beattie: Same objection.

1763

A. That he will work on sash later.

Q47. Kelso said that to you? A. Yes, sir.

Q48. That they would work on the sash later? A. Yes, sir.

Q49. Is that all he said? A. Yes, sir. Then he said "we are not ready for it at the time to put them up."

Q50. Is that all that was said? A. That is all I remember.

Q51. Was not anything said concerning the fact that the men had refused to handle it? A. No, sir; not at that time.

Q52. Had the men refused to handle it up to that time?

1764

Mr. Beattie: I object as not within his knowledge, and his own evidence.

(No answer.)

Q53. Was this prior to or after the time that the contractor told you the men had refused to handle it? A. After the time.

Q54. You don't recall anything else that was said between you and Kelso at that time? A. No, sir; I do not.

Q55. Didn't he explain in any way why it would be handled later and would not be handled then, beyond what you have stated? A. I don't remember, sir. He might have spoken more to my father, who was at that time on the building.

Q56. Your father is dead? A. Yes, sir.

Q57. When did you next see Kelso? A. He would come up there on the building once in a while, I don't know any special time, in, I suppose, his course of duties. They do generally come up when the job is in progress and the carpenters employed.

Q58. Did you see him several times after that, at the building? A. I have not spoken to him, except to say, "How do you do," or greetings; nothing else.

Q59. Haven't you ever spoken to him concerning that matter since that time? A. Yes, sir; I have.

Q60. When was that? A. I went up to their meeting at the union.

Q61. Where was that? A. On 59th Street, in their meeting rooms.

Q62. Did you seek this meeting, or did they ask you to come down?

Mr. Mayer: I ask that the time be fixed, first.

A. I don't remember, sir.

Q63. All these things took place on or after the last week in May, did they not? A. Oh, yes.

Q64. Could you tell about when it was you went down to this meeting? Was it some time in June? A. It would be the last of June or the early part of July, as far as I can remember now.

Q65. Was it a month or so after Salmon

1768 Hyman S. Crystal for Complainant—Direct.

Brothers told you the men would not handle the sash? A. Yes, sir; about.

Q66. Do you remember why you went to the union?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, not binding on any of the defendants, occurring after the commencement of this action.

Mr. Merritt: I understand that all the counsel object to proof of any events subsequent to the commencement of this suit.

1769

A. To find out when the sash will be put up.

Q67. Whom did you meet there? A. There was a meeting there held, there must have been eight or ten men there, and I don't recall their names.

Q68. Was Kelso there? A. He was not there all the time, he would come in and go out.

Q69. Did you go there on more than one occasion? A. Yes, sir.

Q70. Well, now, taking up the first visit, what was said?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, and not indentifying the party that said it.

1770

A. You mean, what was said by them?

Q71. Yes, and by you? A. They told me the sash was not made by a union shop, and there being difficulty about that, and they gave me an undecided answer as to when the sash will be put up.

Mr. Mayer: I move that the answer be stricken out as incompetent, irreleveant and immaterial and not identifying the parties,

making statements in no way binding on any of the defendants.

Mr. Maloney: And as characterizing the answer, not specifying what it was.

Q72. Is that all that you recall? A. Yes, sir. Pardon me, I just recollect at the present time that I met Mr. Kelso, that delegate, prior to that time. I don't remember how long it was, and he told me to give out the sash to a union shop, and I told him at that time that the sash was given out.

1771

Q73. This conversation took place prior to any of these matters concerning which you have testified? A. Yes, sir.

1772

Q74. Some time in May, or even prior to that? A. No, I should judge about the month of May.

Q75. In the early part of May? A. Yes.

Q76. Give us the time, as near as you can fix it, when Kelso came to you, and asked you to secure union sash? A. About the first of May.

Q77. How long prior to that had your contract been placed? A. I don't remember, sir. I can look it up and let you know to-morrow.

Q78. Did Kelso state anything further to you at that time, that you recall? A. No, sir; but this is usually done by this union, to notify us in regard to all the work, in order that we would have no trouble, that we should give our work out to a union shop. It is the usual custom.

1773

Mr. Beattie: I move to strike out "the usual custom," incompetent, irrelevant and immaterial.

A. We have always been notified that way, sir.

1774 Hyman S. Crystal for Complainant—Direct.

Q79. That is, you have been notified by people who represented themselves to come from the Carpenters' Union to this effect? A. From all unions.

Q80. Including the Carpenters' Union? A. Yes, that includes the Carpenters' Union.

Q81. Did they state whether or not they would ever permit the sash to be hung, at this meeting concerning which you have already testified?

Mr. Beattie: I object to that as leading, the witness having already answered.

1775 Q82. This refers to the meeting at 59th Street? A. They gave me no decided answer, sir.

Q83. Did you ask them whether they would allow the sash to be hung? A. I did, sir.

Q84. And they refused to give you any answer at that time? A. Yes, sir.

Q85. Was the fact stated that it was non-union sash? A. Yes, sir.

Q86. Was it stated as to where the sash had been purchased, or by whom it was manufactured? A. It was stated by whom it was purchased, that is, with whom we placed the contract for the sash.

1776 Q87. And it was stated that you had made the contract for the sash. And it was stated that you had made the contract with Parshelsky Brothers? A. Yes, sir. At that time we did not know ourselves who manufactured the sash.

Q88. Was anything further said concerning the sash, beyond the fact that it was non-union? A. They suggested I should buy sash made in New York City.

Mr. Mayer: I move to strike out the answer as incompetent, irrelevant and immaterial, and

1777

not identifyir party making the statement, if such ent was made.

Mr. Beattie: Same motion.

Q89. Was anything said concerning further dealings with Parshelsky Brothers?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial and hearsay; not identifying anybody, and taking it out of the power of the defendants to cross-examine or to meet such testimony.

1778

A. I suggested that I would not buy of Parshelsky in the future, but they were not interested in that at all.

Q90. They stated that they were not interested in that? A. Yes, sir.

Q91. When you adjourned this meeting, or when you left this meeting, was a later meeting arranged for? A. No, sir.

Q92. And you went away without any answer from them, and without any arrangement for a later meeting? A. Well, they told me at the time of the meeting that they were not refusing to put up the sash, that they had given no orders to their men not to interfere with the carpenters erecting sash.

1779

Q93. They did state that? A. Yes, sir.

Q94. At that time? A. Yes, sir.

Q95. Answer the question I put to you: Did you leave that meeting without any answer from these people concerning your request and without any arrangement for any further meeting? A. I did.

Q96. When did you go there again? A. About two weeks later.

Q97. And you went to the headquarters at 59th Street? A. Yes, sir.

Q98. Had the sash been hung up to that time? A. They had not.

Q99. Did you make any appointment to go there before you went? A. I called up their office and asked them when their meeting would be held, and I went there at the time when they told me, which was on the Friday night.

1781 Q100. Was that some time in July? A. Yes.

Q101. Was Kelso present then? A. Yes, sir.

Q102. Do you know anyone else who was present? A. Mr. Cook.

Q103. Do you know anyone else? A. I can't recollect their names, sir.

Q104. What was said at this meeting?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial, in no way binding on any of the defendants, no person identified.

A. Nothing very definite.

1782 Q105. Was the name of Parshelsky mentioned? A. Yes, sir.

Q106. Was the name of the Gould Manufacturing company mentioned? A. Yes, sir.

Q107. Was it stated that this sash was manufactured by the Gould Manufacturing Company?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial. I ask that that be stricken out as not identifying who said it, grossly leading, and hearsay.

Mr. Mayer: Same objection and motion.

A. Yes, sir.

Q108. Did you attend any other meetings at 59th Street? A. I don't remember, sir.

Q109. You don't recall whether you attended over two meetings? A. I do not.

Q110. You have no recollection of attending any others? A. I have not, sir.

Q111. To the best of your recollection, you only attended two? A. Yes.

Q112. Do you know, of your own knowledge, whether the carpenters employed by Salmon Brothers on that building ever quit work, or 1784 whether they simply refused to handle the sash?

Mr. Mayer: I object.

A. The carpentters did go out.

Q113. Did you visit the building regularly? A. Yes, sir.

Q114. And did you see the carpenters at work there on the building? A. Yes, sir.

Q115. Did you visit the building every day? A. Yes, sir.

Q116. Can you state whether or not the carpenters employed there by Salmon Brothers in connection with your building quit work at any time? 1785

Mr. Mayer: I object, incompetent, irrelevant and immaterial; too general.

Mr. Beattie: Same objection.

A. They did quit work.

Q117. When was that? A. It was in the latter part of August.

Q118. Was that before or after the sash was hung? A. After the sash was hung.

1786 Hyman S. Crystal for Complainant—Direct.

Q119. I will ask you whether, during the period that the sash was there remaining unhung, whether any of the carpenters quit work? A. They had not, sir.

Q120. How long was the sash on the building and remaining unhung? A. To my best recollection, about a month.

Q121. And did you see it there from time to time during that month? A. Yes, sir.

Q122. And was the building ready to have it hung? A. In my opinion, it was.

1787

Mr. Mayer: I move to strike out his opinion on the matter, on the ground that he has not been proven to be an expert.

Q123. How long have you been a builder? A. Five years.

Q124. Connected with B. Crystal & Son? A. And also with the Capitol Reality & Construction Company.

Q125. Have been actively engaged in building operations during that period? A. Yes, sir.

Q126. And had personal supervision of the buildings which have been put up by B. Crystal & Son?

1788 A. Yes, sir.

Q127. And how about the other company with which you were connected? A. Not at that time; not with the other company.

Q128. How long have you been with B. Crystal & Sons, in supervision of the building enterprises? A. About four years.

By Mr. Mayer—

XQ129. Ever work as a carpenter? A. No, sir.

XQ130. As a bricklayer? A. No, sir.

XQ131. Ever work at any trade? A. No, sir.

By Mr. Merritt—

Q132. When was this sash actually hung? A. About the middle of July.

Q133. Was it hung by the same men? A. Yes, sir.

Q134. By the same men who had refused to hang it? A. We only deal with the boss carpenters, or with the contractor, and I don't know whether they were the same men, or anything at all that way.

Q135. Do you know whether there were the same men employed on the building during all this period? A. I can only answer as to the contractor, being the same contractor.

Q136. You don't know anything about the employing carpenters? A. No, sir; I do not.

Q137. What is the name of the contractors? A. Salmon Brothers.

Q138. Give the individual names, the names of the men who make up that concern? A. I don't know; it is a firm by the name of Salmon Brothers.

Q139. You don't know the first names of any of them? A. No, sir; I do not.

Q140. How much did this contract with Parshelsky, involving this sash, amount to in value? A. I don't remember, sir.

Q141. Can't you give it approximately? A. I can find it out and let you know.

Q142. At this second meeting of the union which you attended, was anything said about the Gould Manufacturing Company, beyond the statement that they made the sash? A. No, sir.

1792

Q143. Was Mr. Parshelsky with you at either of these meetings? A. I met him outside the meeting room the first time I was there.

Q144. But he was not in the meeting room when the discussion took place? A. No, sir.

145. And did you meet him there at the time of the second meeting? A. I did not. Well, I am not sure, I don't remember.

Q146. Did you ever have any conversation with any of the union representatives just prior to the time that the sash were hung? A. I did.

1793

Q147. With whom? A. With Mr. Kelso and Mr. Cook.

Q148. Did this conversation relate to the hanging of that sash? A. I only spoke on general topics, sir.

Q149. There was no mention made between any of you at that time concerning this sash on that building? A. They spoke to my father at that time.

Q150. I am asking if they spoke to you? A. No, sir.

Q151. Where was the conversation? A. In our office, 527 Fifth Avenue.

Q152. And who was present besides yourself, Mr. Kelso and Mr. Cook? A. Not when my father

1794

spoke to him, but in the room there, there was Mr. Parshelsky was in the office there at that time, and Mr. Bernstein, Mr. Lou Bernstein.

Q153. No reference was made to this building or the sash? A. Not by myself.

Q154. Or by them? That is, by either Mr. Cook or Mr. Kelso? A. Not to me.

Q155. And did you overhear any conversation? A. I did not, sir.

Q156. You did not overhear any conversation from either of these men at this time? A. No, sir.

1795

Q157. Or at any time just prior to when the sash were hung? A. I overheard no conversation with Mr. Cook or Mr. Kelso and my father at any time.

Q158. But with any of the representatives of the union, did you have any conversation or overhear any conversation concerning this sash, other than you have testified to here? A. They were down—I saw them at the office at another time, and I asked them when the sash would be hung, and they gave me no decided answer, and they advised me at that time to come down to the union.

1796

Q159. Was this prior to the time that you went down to the union? A. Yes, sir.

Cross-examination by Mr. Beattie—

XQ160. You are the only witness who has not been asked his age? A. Yes, I have. Twenty-nine.

XQ161. You have been in the building business five years? A. Yes, sir.

XQ162. Your father died when? A. November 10, 1911.

XQ163. Just about a month ago? A. Yes, sir.

1797

XQ164. But he really had charge, in the main, of your building operations, didn't he? A. Yes, sir.

XQ165. And what happened in connection with this sash was mainly in his charge, wasn't it? A. Yes, sir.

XQ166. Now you are a large firm of builders, are you not? You do quite extensive building operations? A. We do, sir.

XQ167. And you are not a member of the Master Carpenters' Association? A. I am not, sir.

XQ168. Builders in Manhattan are classed this way, are they not, in the trade: As members of the

Master Carpenters' Association, and as speculative builders? Are they not generally classed that way? A. I don't know.

XQ169. Are you not in the class known as speculative builders? A. I don't know.

XQ170. Well, there are a large number of large builders like yourself who build in Manhattan, who are not members of the Master Carpenters' Association, are there not? A. I don't know.

XQ171. Don't you meet a number of large builders who are not members of the Master Car-
1799 penters' Association, who do business in Manhattan? A. I never asked them whether they were members or not.

XQ172. Well, it was never discussed by you, or any of the representatives of the union, either at the first meeting you attended, or before that, who made this sash, except that it came from Parshelsky Brothers, is that right? A. No, sir. At one of the meetings they brought that up at the meeting of the union, that this sash was made by the Gould Manufacturing Company.

XQ173. That was at the second meeting, that is as you testified? A. Yes, sir.

1800 XQ174. And at the first meeting, nothing was said as to where it came from, except that it came from Parshelsky Brothers? A. Yes, sir.

XQ175. And there was nothing said prior to that by any of the representatives of the union, as to where it came from, except that it was non-union, is that it? A. Yes, sir.

XQ176. And shortly after the meeting at which it was mentioned by somebody that it was Gould sash, the sash was hung? Is that right? A. I have already stated about the time this sash was hung.

1801

XQ177. Wasn't it shortly after this second meeting that you attended of the carpenters? A. It was after the second meeting.

XQ178. There was no meeting of the carpenters and you subsequent to this second meeting, at which Gould's name was mentioned, in which this sash was referred to, before it was hung? Following the second meeting, when the Gould sash was mentioned, the sash was hung? A. Yes, sir.

XQ179. And there was no meeting in the interim, between the second meeting which you attended and the hanging of the sash, there was no further meeting that you know of? A. I don't remember. I might have met some of the men there.

1802

By Mr. Maloney—

XQ180. Was there any meeting that you knew of, after the second meeting, a meeting of this union?

By Mr. Beattie—

XQ181. There was no other union meeting you attended after that second meeting up to the hanging of the sash? A. To the best of my recollection, there was not.

1803

XQ182. The hanging of the sash and of the woodwork was let out by you to Salmon Brothers? A. Yes, sir.

XQ183. And I suppose you made contracts for the brick work and the iron work to separate contractors on the building? A. I did, sir.

XQ184. Divided the construction of the building up among different sub-contractors? A. I did, sir.

1804 Hyman S. Crystal for Complainant—Cross.

XQ185. And you had nothing more to do with the carpenters' end of it than you did the iron workers, the bricklayers, the plasterers, and the different contractors? A. I did not.

XQ186. And you had nothing to do with the employment of the men on any of these different subcontracts? A. Not directly.

XQ187. When did you first learn, or do you even now know, that this was Gould's sash? A. I first learned it at a meeting of the union.

XQ188. This is that second meeting? A. Yes,
1805 sir.

XQ189. Did you get any information from anyone else as to that, afterwards? You don't know now for sure, it was Gould sash? A. Mr. Merritt told me that later, that is was manufactured by Gould Manufacturing Company.

XQ190. That is really all you know about it, is it, whether it was or not? A. Yes, sir.

XQ191. You did not care who made it, did you? You bought certain sash from Parshelsky, and you were not interested in knowing where he got it, were you, at that time? A. Well, it was specified
1806 as to Paine Lumber Company or equal, when we gave the contract out to Mr. Parshelsky.

XQ192. That is "or equal"—you mean—— A. As well manufactured, the character of the work.

XQ193. Or equal. You don't know that any of it came from the Paine Company? A. I don't, sir.

XQ194. And you don't know about any of it, now? A. I don't; no, sir.

XQ195. You really don't know now where it came from, except what Mr. Merritt told you, and what somebody in the union said? A. Yes, sir.

By Mr. Maloney—

XQ196. How long was your father ill before he died? A. He was ailing for a few months prior to his death, but he was not ill in bed until about two weeks before his death.

XQ197. And what date in November did he die? A. November 10th.

XQ198. Do you know whether, while he was well, he was spoken to concerning this case by anyone on behalf of the complainants in the case, as to the testimony that he might give? A. I don't know. I don't believe it. 1808

XQ199. When did you first see Mr. Merritt, the complainants' counsel? A. About a couple of weeks after the sash was delivered on the building.

XQ200. And Mr. Merritt had communications with your father at or about the same time, did he not? A. I don't know.

XQ201. Do you know whether anyone on behalf of the complainants in this suit had talks with your father as to testimony that he might give in this case? A. I don't know, sir.

XQ202. Did you know that at some time after April, 1911, complaint was made by the complainants or their counsel concerning these incidents regarding which you have testified? A. No, sir. 1809

XQ203. No such complaints were brought to your attention or to the attention of your father, so far as you know? A. No, sir.

XQ204. Did you have talks with Parshelsky about it? A. No, sir. Pardon me, you mean about testifying, don't you, when you speak of all those things?

XQ205. Yes. Do you know of your own knowl-

edge, anything which would tend to prove that the complainants or their counsel knew, during the months of July, August, September or October, that your father was ill and that his testimony might be taken, as a witness in this case? A. I do not.

XQ206. Were these properties on Riverside Drive? A. Yes, sir.

XQ207. How many buildings were there? A. Two buildings.

XQ208. When was the sash delivered on the
1811 building? A. The latter part of May, I should judge.

XQ209. Well, had any part of it been delivered before that time? A. I don't remember, sir.

XQ210. When did you start that job? A. I started to excavate in the month of November, 1910.

XQ211. Did you ever know that Parshelsky communicated with the Gould Manufacturing Company about their sash? A. Yes, sir.

XQ212. Parshelsky telegraphed the Gould people about it, did they not? A. Yes, sir.

XQ213. They wanted to know whether their
1812 sash was union made sash, is that right? A. I don't know what was in the telegram, but they did telegraph to the Gould Manufacturing Company as to the sash.

XQ214. Did Parshelsky tell you that? Did you see the telegram? A. He showed me the telegram in Mr. Parshelsky's office.

XQ215. That was in the month of January, 1911, wasn't it? You commenced this work in November, 1910, didn't you? A. Wait until I get my dates fixed right. No, November, 1910. Why, I

don't remember. No, it could not be in January.

XQ216. Why couldn't it be in January? Mr. Gould makes affidavit in this case that during the month of January, 1911, he received a telegram from Parshelsky Brothers, contracting builders, doing business in the city of Brookly, asking him if sash manufactured by deponent's company was union made? A. This telegram I refer to was later on in the year.

XQ217. How do you know it was? A. The time that we were over to Parshelsky's office; it was the latter part of June. 1814

XQ218. Did you say that in May, the time you had these conversations with these people, that 70% of the sash was done? A. Oh the building, not the sash.

XQ219. No sash whatever put up? A. What date have you got?

XQ220. At the time that you were having these interviews with Cook and Kelso, of the union? A. The building was progressing all along the time. If you will specify a definite time.

XQ221. If it was 70% completed at that time, there was a great deal of the sash in? A. I said 70% of the building, not of the sash. 1815

XQ222. But there was a great deal of the sash in the building then, wasn't there? A. Not hung; it was delivered to the building.

XQ223. When was it delivered? A. I don't remember the exact dates. I gave already in testimony about the time that they were delivered.

XQ224. You mean to say that the building was 70% completed and none of the sash was hung? A. Yes, sir.

1816

XQ225. Where was the sash in the building? A. On the first floor.

XQ226. How long before these incidents to which you have testified was the sash delivered on the first floor? A. I don't remember the exact dates.

XQ227. Wasn't it before that, that the telegram was sent by Parshelsky? A. This telegram that I have stated was——

XQ228. Was it before that, that the telegram was sent by Parshelsky to the Gould Manufacturing Company? A. The telegram that I saw at Par-

1817

shelsky's office was long after the sash was delivered to the building.

XQ229. Now can you fix the date when it was delivered? A. I should judge the sash was delivered in the month of May.

XQ230. Are you sure about that—was the sash delivered after the first of May? A. I am not sure, sir.

XQ231. Was it delivered before the first of April —yes or no? A. That can easily be verified.

XQ232. Yes or no. Was it delivered before the first of April, as far as you know? A. It was not.

XQ233. Do you know when you made the con-

1818

tract with Parshelsky? A. I don't remember.

XQ234. Was that prior to January, 1911, that you made the contract with Parshelsky? A. I don't remember, sir.

XQ235. Can you tell when you gave out the contracts for the work on the job? A. Do you mean contracts for all different work, or only sash?

XQ236. Can you recall when you gave out any of the work? A. Why, during the latter part of the year 1910, and as the work progressed afterwards.

XQ237. Was any part of the woodwork given

1819

out before January, 1911? A. I don't remember, sir.

XQ238. Why is it that you can't remember that? A. I can find that out and let you know the definite dates.

XQ239. But you remember those other dates in May, about these meetings that you had, and these talks? A. The other is not very important, and I try not to remember the dates when I give out a contract, when I have it at the office and can always look it up.

1820

XQ240. Will you bring that contract down that you had with Parshelsky Brothers? A. I will, sir; if you so require it.

XQ241. I do. Did you read the telegram that was sent by Parshelsky? A. I did not read it, sir.

XQ242. I would like to see that contract. Can't you telephone to your office and find out when it was? A. I can do that sir. (Witness telephones, but does not get information.)

By Mr. Mayer—

1821

XQ243. Were you tied up by anything else in this building operation than the fact that the sash was not hung immediately upon arrival at the building? A. Do you mean, if we delayed the construction work?

XQ244. Yes, was the building operation held up by other reasons than those you have assigned here? A. No, sir.

XQ245. You are sure about that? A. Yes, sir.

XQ246. Is this the building on Riverside Drive that B. Crystal & Son were erecting, where there was an action brought by tenants next door, is that it? A. Yes, sir.

1822

XQ247. Wasn't there an injunction issued by the Supreme Court? A. Yes, sir.

XQ248. And didn't that tie you up for a time? A. No, sir.

XQ249. It did not? A. No, sir.

XQ250. I am not referring to the fact that you disobeyed the injunction, but the fact that your building operation was tied up? There was an injunction granted about the time you have been talking of here, which prevented you from working along as speedily as you wanted? A. No, sir.

1823

XQ251. Isn't that so? A. No, sir.

XQ252. Didn't a man by the name of Taylor bring an action against you? A. It did not interfere with the construction of the building.

Mr. Merritt: Objected to as incompetent, irrelevant and immaterial, and as having no bearing upon the issues in this case, and I move that these foregoing answers and questions in connection with it be stricken out.

XQ253. This was an injunction that was granted against your firm, wasn't it, by the Supreme Court?

1824

A. Yes, sir.

XQ254. Which in terms restrained you from working as speedily as you would like to work on that building? A. It did not restrain us from working as speedily; it restrained us from throwing our rubbish out of the window on the back yard.

Mr. Merritt: Same objection to all this line of testimony.

XQ255. Wasn't there a complaint made about

noise and the manner of working on Sundays, and night time? A We are not in the habit of working Sundays and night time; we are only working eight hours a day.

XQ256. Did not that injunction interfere with your going on with the work? A. I have already stated that it did not.

Subscribed and sworn to before me this day of , 1911.

Mr. Maloney: I object to the testimony of this witness on the ground that it is incompetent, irrelevant and immaterial, and having nothing to do with the issues in this case, and move to strike it out on that ground.

NATHAN BERNSTEIN, a witness called on behalf of complainants, testified as follows:

Direct examination by Mr. Merritt —

Q1. What is your full name? A. Nathan Bernstein.

Q2. You are a member of the concern of Joseph B. Friedlander & Sons, in Brooklyn? A. I am one of the officers of that corporation.

Q3. What office do you hold? A. Secretary and Treasurer.

Q4. And that concern is engaged in the business of dealing in sash, glass, windows, etc., isn't it? A. Principally glass.

Q5. Now that concern has made an agreement, has it not, with the United Brotherhood of Carpenters, or its District Council, in regard to purchase of sash? A. If there was an agreement, I

don't remember it at all, because I only heard it spoken of.

Q6. Where is the agreement? A. We have lost it, if we ever had such an agreement.

Q7. You never saw it? A. I may have, but I can't just recollect any part of it, I don't know the contents of it at all.

Q8. Were you connected with the concern when it was made? A. Yes, sir.

Mr. Maloney: He did not say any was made.

1829 Q9. Did you not testify there was a contract made? A. No. This is the first time I have testified.

Q10. Just now? A. I said there may have been an agreement, I don't recollect it.

Q11. You don't recollect there ever having been an agreement of that kind? A. There was some talk, but I have not any recollection of the agreement.

Q12. Talk with whom? A. That I don't know, either.

Q13. You had nothing to do with it, whatsoever? A. No.

1830 Q14. Who else connected with your concern? A. My brother may have had something to do with it.

Q15. What is his name? A. Louis.

Q16. And you did not have any talk with anyone concerning it, unless it was your brother? A. Yes I did, I had a talk with somebody, but I have forgotten what that talk was. It has passed out of my mind.

Q17. Concerning an agreement? A. Yes.

Q18. Who was this talk with? A. Two or three gentlemen.

1831

Q19. Did they represent themselves to come from the union?

Mr. Beattie: I object; incompetent, irrelevant and immaterial.

A. I don't recollect it any more.

Q20. Well, you had some talk concerning an agreement once. When was it? A. It may have been a year ago.

Q21. You never saw an agreement? A. I did see some kind of a writing, it may have been an agreement, but I don't recollect it any more.

1832

Q22. You have seen lots of kinds of writings? A. Yes.

Q23. To what particular writing are you referring to, that you saw?

Mr. Beattie: I object.

Mr. Merritt: Counsel is referring to an agreement which this concern has entered into with a union in practically the exact words of the Arnstein and Edmonds agreements.

Mr. Maloney: Why not ask him?

Mr. Merritt: I am trying to.

Mr. Maloney: Refresh his recollection.

1833

A. There was an agreement about some sash, but I don't recollect it, because I did not give that part of the business much attention.

Q24. That is, your brother had that in charge? A. Yes.

Q25. Is your brother in town? A. Not to-day.

Q26. He lives in Brooklyn? A. He lives, when he is in town, in New York. He is away, ill.

Q27. Where does he live? A. He lives in 99th Street.

1834 Nathan Bernstein for Complainant—Direct.

Q28. What is the number? A. 319.

Q29. And where is he now? A. Lake Placid.

Q30. What is his address at Lake Placid? A. I just address him Lake Placid; he has a house up there, and it reaches him.

Q31. And you don't recall ever seeing an agreement of this kind? A. Yes, there was an agreement, I can positively state that, but what that agreement was—it may have been something about sash.

Q32. There was an agreement with the union?
1835 A. With the union, yes. I suppose it was the union.

Mr. Mayer: I object to going into this.

A. The reason I did not pay very much attention, we had made up our mind to abandon anything about the sash, and left that entire matter with my brother, although they spoke to me about it. I told them as long as we were going to abandon that part of the business, I did not care very much.

Q33. Would you recognize the agreement if you saw it? A. Yes, I certainly would, that is, if it bore my brother's signature or my own.

Q34. Would you recognize it in the absence of
1836 those signatures? Would you recognize the context of it? A. No, I don't believe I would, unless it had either my brother's signature on it or my own.

Q35. You have not any idea where this agreement is? A. No, I have not.

Q36. When was it you saw this paper which you said you supposed was an agreement? A. The day that it was executed.

Q37. You have never seen it since? A. No, it passed out of my mind.

1837

Q38. You never handed it to anyone? A. I may have, because I hunted for that paper and made a thorough search for it.

Q39. Have you any recollection of handing it to any person? A. No.

Q40. Temporarily, or otherwise? A. Yes, I did have such a recollection.

Q41. To whom did you hand it, to the best of your recollection? A. I inquired of that party and he said I never handed it to him, so I was mistaken.

Q42. Who was that party? A. Parshelsky.

1838

Q43. Isaac? A. It was one of them.

Q. You know it was one? A. Yes, but I don't know which one. I thought if I had such a paper I may have shown it to him, or handed it to him.

Q45. Have you asked both of the Parshelsky's? A. Yes.

Q46. And they both said you did not hand it to them? A. They said if I did, they returned it to me.

Q47. They did not say that you did not? A. No, but they said, if I did, they returned it, and since that time I have lost all track of that paper.

1839

Mr. Merritt: I want to give defendants notice to produce agreement entered into with this concern of Joseph B. Friedlander & Co., concerning the purchase of non-union sash.

Mr. Beattie: We object to that notice, on the ground that it has been shown to be in the possession of Parshelsky Brothers.

(No cross-examination.)

Subscribed and sworn to before me this day of , 1911.

1840 Wm. R. Rogers for Complainant—Direct.

WILLIAM R. ROGERS, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. William R. Rogers.

Q2. What is your business to-day? A. I am clerk in the Central Branch of the Y. M. C. A.

Q3. How long have you been connected with
1841 that? A. For three months.

Q4. What was your business prior to that time? A. Builder.

Q5. Were you a member of the Carpenters' Union? A. Yes, sir.

Q6. Are you still a member of the Carpenters' Union? A. No, sir.

Q7. About when did your membership cease? A. Last fall.

Q8. Who were you working for last fall, while you were a member of the Carpenters' Union? A. Mr. O'Brien.

Q9. Is that O'Brien Brothers? A. O'Brien
1842 Brothers; yes, sir.

Q10. And where were you working for him? A. East Fourth Street and Fort Hamilton Avenue.

Q11. In Brooklyn? A. In Brooklyn.

Q12. What sort of a building was it? A. They were apartment houses and two-family houses.

Q13. How many of them? A. Fifteen altogether.

Q14. When did you first go to work there? A. Last June; June, 1910.

Q15. And when did you finish up work there? A. The 15th of October, 1910.

 1843

Q16. In what capacity did you serve on that building? A. Superintendent.

Q17. Superintendent for O'Brien Brothers? A. Yes, sir.

Q18. And were they master carpenters? A. No, sir.

Q19. General builders? A. No, sir.

Q20. What were they? A. This was their first operation.

Q21. What was their business? A. It was the first operation in the building business. I believe they are general contractors in the stone business, 1844 or something.

Q22. Were you superintendent of the entire construction? A. Yes, sir; of the entire construction.

Q23. Who were the contracting carpenters, or wasn't there any? A. There wasn't any when I first went there.

Q24. Did you employ the carpenters yourself? A. Yes, sir. Oh, excuse me, there was a contract carpenter, when I was superintendent, by the name of Johnson, had the contracting.

Q25. Did any strikes of the carpenters take place while you were there? A. Yes, sir.

Q26. State the circumstances concerning that 1845 strike?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial; in no way connected with these defendants.

Mr. Mayer: Same objection.

A. They called the men out on strike.

Mr. Beattie: I move to strike out the an-

swer as a conclusion; incompetent, irrelevant and immaterial.

Q27. Did you see the men called out? A. Yes, sir.

Q28. Do you know when this was? A. About the middle of September.

Q29. Who called them out? A. The delegate.

Q30. Do you know his name? A. O'Grady.

Q31. Do you know whether this was William O'Grady? A. I think his name was William, I am

1847 not positive.

Q32. Did you hear what he said to the men? A. He said they would have to go out.

Q33. Did he state why they would have to go out? A. Yes, sir.

Q34. What reasons did he give?

Mr. Maloney: Objected to; incompetent, irrelevant and immaterial.

A. On account of using Albro J. Newton's trim.

Q35. You refer to the Albro J. Newton Company?

1848

Mr. Maloney: Objected to; incompetent, irrelevant and immaterial; not having anything to do with these complainants.

A. Yes, sir.

Q36. And did you talk to O'Grady yourself? A. Nothing much; no, sir; I did not say much to him.

Q37. Did he ask you to quit work? A. Yes, sir.

Q38. What did he say to you? A. He said I would have to go out.

Q39. Is that all that you recall now that he said? A. That is all he said.

Q40. Did you go out? A. No, sir.

Q41. Did the other carpenters go out? A. Yes, sir; they all went out, every one of them.

Q42. Did you hear any of the carpenters state, as they were leaving work, why they quit work?

Mr. Beattie: I object; incompetent, irrelevant and immaterial; not identifying the people.

1850

A. Yes, they stated why they went.

Q43. What reasons did they give?

Same objection.

A. They said it was on account of the trim, they said it was on account of Newton's trim.

Q44. Did they state whether or not they wanted to go out? A. They did not want to go out.

Mr. Maloney: I move to strike out the answer as not responsive and giving his own conclusion as to why, and not what they said.

1851

Q45. Did they so state to you? A. They said they did not want to go out. I could not give a much plainer answer.

Q46. How many buildings were there there involved? A. Fifteen.

Q47. Did the men quit work on all those buildings? A. The carpenters, all the carpenters.

Q48. Did you hear anything from the union concerning this matter? A. Yes, sir.

Q49. What happened, as far as your own per-

sonal experience goes? A. They brought me up on charges in the union.

Q50. And how was that done? A. They fined me.

Q51. Did you receive a notice? A. Yes, sir.

Q52. To attend the meeting? A. Yes, sir.

Q53. Did you attend the meeting? A. I attended the meeting of the District Council that I was called to attend—a meeting of what they call the Borough Committee.

Q54. You attended a meeting of the Borough Committee of the District Council? A. Yes, sir.

1853 Q55. And where was its headquarters? A. Boerum Place and Atlantic Avenue.

Q56. And you went there? A. Yes, sir.

Q57. How long after the strike was it you went there? A. A month or so.

Q58. Who was there? A. The members of the Borough Committee, I don't know their names, except one, and that was Black, and O'Grady.

Q59. You did not see anyone else that you knew? A. Oh, yes; I knew their faces, but I don't know their names.

Q60. You did not see anyone else down there that you knew by name? A. Not by name; there
1854 was only the Borough Committee there, five members.

Q61. Would you know Erickson by sight? A. Oh, yes.

Q62. Was he there? A. No, sir; he was not there. You mean Erickson the delegate?

Q63. Yes? A. Yes, I know him; I am well acquainted with him.

Q64. He was not at their headquarters that night? A. No, not there.

Q65. Do you know Wolfinger when you see him?
A. I could not say that. I know of him.
Q66. What took place at this meeting?

Mr. Mayer: I object.
Mr. Beattie: I object.

A. They asked me why——

Mr. Beattie: Is that written record?
The Witness: Yes, they have it.
Mr. Beattie: I would like to get that written record of this trial. 1856
Mr. Merritt: Will you produce the written record? If you will, I will postpone the examination of this witness until I find out whether the record does cover it?
No answer.
Mr. Merritt: I give you notice to produce all written records of any kind and character which you have concerning the trial of this witness, or any of the meetings at which he was present.
Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.
Mr. Maloney: And collateral matter on the trial of this witness that has nothing to do with this matter. 1857

A. Do you want me to answer questions?
Q67. Narrate what took place?

Mr. Beattie: Same objection.

A. They asked me why I did not go out. I said I positively refused to go out, on the ground that I was working for a man and it would put him in

a terrible hole if I went. I had charge of the construction of the whole buildings, stone masons, foundation men, bricklayers, plumbers, and carpenters and painters and everything else, and I said that if I went and someone else came in there and took up the threads of the work where I left it off, that it would probably cost the man a thousand dollars more to finish the buildings, and I positively refused to go out and I did not go out.

Mr. Maloney: I move to strike out as incompetent, irrelevant, immaterial, hearsay,
1859 nothing to do with this case.

Q68. What did they say? A. They could not say anything one way or the other; they fined me $25.

Q69. They fined you $25.? A. Yes, sir.

Q70. Did they fine you that very evening? A. The fine was placed on me before, when I refused to go out, and then I went on trial.

Q71. You were fined before the trial? Yes, sir.

Q72. You received notice to that effect? A. Yes.

Q73. Have you got that notice? A. No.

Q74. Is this the only meeting that you attended? A. No, I attended one other besides that.

1860 Q75. When was this, after that time? A. That was afterwards.

Q76. How long afterwards? A. A couple of weeks. After that, I went before my own local and asked them if they could not use some means to have the fine remitted, and they said it was out of the power of the local to do so. I then went back before the committee and said that I thought that I was justified in taking the position that I did.

Q77. That is, you went to another meeting at the same place? A. Yes, sir. There were only three

there at that time.

Q78. Do you recall who they were? A. No. O'Grady was one of them.

Q79. And you told them you thought you were justified. What did they say? A. They said it had gone too far, and they could not do anything about it.

Q80. Did you pay the fine? A. No, sir.

Q81. What happened after that? A. I was expelled.

Q82. Did you receive notice to that effect? A. No, I never received any notice. I took it from 1862
the notice I got that I would be expelled if the fine was not paid.

Cross-examination by Mr. Beattie—

XQ83. What do you do at the Y. M. C. A., Central Branch? A. I am what they call "locker clerk." I have charge of 1,600 lockers of the members.

XQ84. In order to get that position, did you have to make any statement of keeping faith in contracts made by you, or anything of that sort? 1863
A. No.

XQ85. Did you have to express your belief in some religion in that connection? A. I belong to the church.

XQ86. What church do you belong to? A. Methodist.

XQ87. Did you have to show that you were a member of the Methodist Church to get that position? A. Well, I made an application there at the Y. M. C. A.

XQ88. Through the Methodist Church? A. Not

particularly through the Methodist Church, but I was acquainted with a young man, I have a friend who is cashier there.

XQ89. Did you have a church recommendation to get it? A. Yes.

XQ90. What recommendation did you get? A. From the Pastor.

XQ91. From the pastor of what church? A. Fourth Avenue Methodist Episcopal Church, Brooklyn.

XQ92. To the effect that you were a Christian?
1865 A. Yes, sir.

XQ93. Is part of that faith, the keeping of agreements and contracts that you make? A. Yes, sir.

XQ94. When you joined the Carpenters' Union, did you make an agrement and contract not to work on non-union material? A. No, sir; I never made any agreement of that sort.

XQ95. Didn't you know that was part of the by-laws? A. Yes.

XQ96. You knew it was in the by-laws? A. Yes.

XQ97. Before you joined? A. Yes, sir.

XQ98. And didn't you know when you joined that that was part of your agreement of member-
1866 ship? A. Yes, sir. But you understand, when I was working on this building, that I was not handling any trim at all, I was not supposed to be a carpenter.

XQ99. You were directing the work? A. I was superintendent.

XQ100. You were directing work on non-union trim, which you agreed not to handle? A. I never made any agreement like that, because when I joined the Carpenters' Union, we did not have to sign an agreement of that kind.

1867

XQ101. Don't you know that your membership is an agreement as expressed in the by-laws and constitution? A. Yes, sir.

XQ102. And you understood part of that condition of membership was that you should have nothing to do with handling non-union material, or working with non-union men? A. I never looked at it in that light.

XQ103. Do you look at it in that light now? A. No, sir.

XQ104. You do not? A. No, sir.

1868

XQ105. When you became a member, did you consider that you were obliged to obey any of the by-laws of this association? A. Yes; if I did not obey them I was fired out, that is all.

XQ106. You expected to be fired out if you did not obey them? A. Yes.

XQ107. You knew one of the rules was, not to work on non-union material? A. Yes, sir.

XQ108. And didn't you consider it part of your duty, then, not to direct the men to work on non-union material? A. No, sir.

1869

XQ109. You thought that you were proscribed from working on non-union material, but that you could direct other men to work on non-union material? A. Yes, sir.

XQ110. You thought that was right? A. Sure.

XQ111. And you think that is right now? A. I do, yes, under the conditions that were existing at the time.

XQ112. When you were put under charges, you made answer to the charges, didn't you? A. I answered the charges; yes, sir.

XQ113. The charges were, that you had violated your agreement of membership? A. Yes, sir.

1870

XQ114. In causing other men to work on non-union trim—wasn't that the charge? A. Oh, no.

XQ115. What was the charge? A. The charge that I was fined because I did not go out at the time the men were called out, refusing to obey the order of the delegate in not going out, that was the charge.

XQ116. It was because of your ordering these men in and about the installation of non-union trim? A. No, that was not the charge.

XQ117. Didn't you know that Newton's trim
1871 was non-union? A. Yes, sir; but that was not the charge.

XQ118. Did you know Newton's trim was non-union when you took the job of putting it up? A. Yes, I have known it for years.

XQ119. You have known that for years? A. Yes, sir.

XQ120. And you went into that job knowing that you were to handle the non-union trim, when your agreement with your organization proscribed it? A. There was no objection from the organization when I went there.

XQ121. Didn't you have any conscientious ob-
1872 jections? A. I did not, sir, not a particle; I would do the same thing to-day if I had it to do.

XQ122. What were your answers to the charges? Was the charge not obeying a delegate? A. That was the charge; yes, sir.

XQ123. What was your answer to it? A. I have just stated, that I explained that I thought that I was justified in the position I took, not going out.

XQ124. Was your answer that you had disobeyed, or that you had not? What position did

you take? A. I had disobeyed the rules, but I said that I was justified in disobeying the rules.

XQ125. Then you admit you disobeyed the rules? A. Yes. I had disobeyed the rules of the union in not going out; yes, sir.

XQ126. You had done that? A. I said I knew that, but that I was justified in doing as I did.

XQ127. And what was your justification? Because it would hurt your boss? A. Hurt the man I was working for.

XQ128. That is, you thought you were justified in breaking your agreement with the union? A. I had no agreement with the union, I did not consider that I had any agreement with the union.

XQ129. Well, you were justified in breaking the by-laws of the union in order to save your employer from losses? A. I did not look at it in that light.

XQ130. Do you look at it now in that light? A. No, sir; I do not.

XQ131. What light have you got on it? What light do you look at it in? A. The light I look at it is, the union makes so many laws that are perfectly ridiculous.

Mr. Beattie: I ask that that be stricken out.

XQ132. What light do you look at that in? That is the question? A. I don't know how I can explain it any more clearly than I have done.

XQ133. Who employed you? A. James O'Brien.

XQ134. I thought you said that this carpenter work was let out to a contractor named Johnson? A. So it was. I am trying to tell you that I was not a carpenter at all, not supposed to be a carpenter. I was superintendent of the carpenter work, the brick work, and the mason work and the buildings in general.

XQ135. Did you hire the men? A. No, sir.

XQ136. You hired none of the men? A. No, sir.

XQ137. How many other strikes were there on that job? A. There was not any that I know of; a little strike on account of the glass, but I don't know what it was, the glass in the store windows, there was some delay about that, but I don't know just what the trouble was.

XQ138. Didn't that include the sash in the store windows? A. No; separate contract.

XQ139. Did you offer any evidence except your
1877 own testimony at this trial? A. No, sir.

XQ140. You did not pay the fine? A. No, sir.

XQ141. You could have held your job as superintendent of these fifteen buildings if you had paid the $25. fine? A. I don't think I could, no sir.

XQ142. You don't think you could? A. No, sir.

Mr. Merritt—

Q143. Didn't you hold the job? A. No, only for about a month after the strike.

XQ143. When did the men go back? A. They did not go back.

XQ144. How was this trim put up? A. By non-
1878 union labor.

XQ145. No trouble about getting plenty of non-union labor? A. Not a bit.

XQ145. Not a bit of trouble? A. Not in our line, not in the carpenters.

XQ146. How soon after the men went out, did you man the job with non-union labor? A. About a week or ten days.

XQ147. Did you procure this non-union labor? A. I hired the men.

XQ148. You hired the men? A. No, I did not

hire them; the clerk in the office did that, but I had charge of them.

XQ149. You fixed their wages? A. No, Mr. O'Brien had a clerk in the office that hired the men.

XQ150. You said you had hired them? A. Well, I made a mistake; I say I made a mistake.

XQ151. Did you hire these men at less wages than union men? A. He hired them.

XQ152. What wages did they get? A. I don't know.

XQ153. They got less than the union wages? A. 1880
Yes, they get less wages.

XQ154. And you continued in charge of these non-union men for about a month after this strike? A. Four weeks.

XQ155. Didn't you consider that that was a violation of your obligations to the union? A. No, sir.

XQ156. To handle non-union men? A. No, sir.

XQ157. To direct them? A. No, sir.

XQ158. Wasn't that part of the charge? A. I thought it was a violation of the rules, but to tell you the truth, I was so completely disgusted with the actions of the union that I kind of washed my 1881
hands clean of them.

XQ169. Didn't they express their disgust at your actions in the matter? A. They did by fining me.

XQ160. And weren't you fined also because you were directing these non-union men in connection with this work? A. I don't know what the fine was for; I know they fined me $25.

X161. How did you come to lose your job? A. O'Brien discharged me.

XQ162. What salary did you get? A. $30. a week.

XQ163. Was everything going smoothly when they discharged you, as to men? Had all the men you wanted? A. He sub-contracted the work out to what they call a scab contractor, a non-union contractor.

XQ164. Was that why you left? A. I don't know why I left. After the strike, Mr. O'Brien was never the same with me. Whether he blamed me for it I don't know, he never was the same. He
1883 did not say why he discharged me. One Saturday morning he told me he was through with me, and that is all he said.

XQ165. Didn't he complain about your hiring non-union labor? A. No. It was through his orders that the men were hired, not mine.

By Mr. Maloney—

XQ166. Were you a carpenter by trade? A. Yes, sir.

XQ167. And how long had you been a member of the union before this trial? A. Thirty years.

1884 XQ168. Up to that time, did you believe in the principles of the union? A. I believe in the principles of the union, that they were right as far as they went.

XQ169. And it was only this incident that occurred to you that caused you to change your belief? A. No, sir; it was other incidents of a similar character which caused that.

XQ170. You had a change of faith in regard to unionism at or about that time? A. Before that.

XQ171. And your heart was not in unionism

then? A. It was not, the way it was conducted.

XQ172. You did not complain to the union or to the officers? A. There was no use for me to complain.

XQ173. I mean, you did not complain? A. I did not.

XQ174. In the meantime, you worked with union men? A. I had to, to make a living.

XQ175. Well, did you? A. Did I what?

XQ176. Did you, in the meantime, work with union men? A. Yes, sir; I worked with union men and non-union men.

XQ177. You worked with non-union men, too? A. Yes, sir.

XQ178. That was contrary to the rules of the union, wasn't it? A. I suppose it was; yes, sir.

XQ179. You did not feel, then, that your by-laws to which you subscribed had any binding effect on you? A. They did not; no, sir.

XQ180. You did not believe that? A. I did not believe they had.

XQ181. You thought it was all right to belong to the union and obtain such advantages as it might give, and that you could also take any advantages you might get outside that you could? A. They never gave me any great advantages.

XQ182. Was that your idea, that if you could also obtain any advantage by violation of its rules, you were free to do so? A. I did not look at it in that light; no, sir.

XQ183. Then the violation of the rules did not even occur to your mind at all, did it? A. Well, I knew that I was violating some of the rules that, —I would not like to express what I would call them,—a lot of men made.

1888

XQ184. These rules were made by the men? A. The simple fact is, that I have no faith in the men that made the rules.

XQ185. Did you take any part in the making of the rules? A. No, sir.

XQ186. Why was that? A. Because I did not belong to the clique.

XQ187. You did not attend the meetings? A. I attended the meetings of my local.

XQ188. You did not vote? A. I did vote.

XQ189. You voted for the delegates? A. I

1889 voted for the delegates.

XQ190. To that extent, you took part in making these rules, didn't you? A. To that extent; yes, sir.

XQ191. Did you believe that notwithstanding these rules were made, that you were free to violate them? A. I did not give the matter much thought.

XQ192. How did you come to give testimony in this case? A. I was subpœnaed.

XQ193. Is that the first you heard of it? A. Yes, I think it was.

XQ194. Nobody talked with you before you were

1890 subpœnaed, about some testimony you might give in this or any other case? A. Well, not that I recall. Mr. Newton—we were talking about the strike last fall.

XQ195. And was it through Mr. Newton that you became a witness in this case? A. Yes, I got a letter from Mr. Newton.

XQ196. When? A. Some time ago, I don't know just how long ago, five or six weeks ago.

XQ197. About testifying in this case? A. About coming as a witness; yes, sir.

XQ198. In this case? This case is the case of Paine Lumber Company? A. Oh, no; I never got any notice of that.

XQ199. Do you know what this case is? A. No, sir.

XQ200. Do you know what it is about? A. I do not.

XQ201. What case did you suppose you were testifying in? A. In the case I was connected with last fall.

XQ202. Newton? A. O'Brien and Newton; yes, sir.

XQ203. Have you got the subpœna that was served upon you? A. I think I have. (Witness produces subpœna.)

XQ204. This subpœna which you have is a subpœna in a case in the Supreme Court for the State of New York—Albro J. Newton Co. against Henry Erickson and others. Is that the case you supposed you were testifying in now? A. Yes.

XQ205. You did not know you were being examined as a witness in the case of Paine vs. Neal? A. No, sir.

XQ206. And also in the case of Irving & Casson against Neal and others? A. No, sir; I do not.

XQ207. Did you get another subpœna for to-day, or is that the only one you have? A. That is the only one I have.

XQ208. And then arrangements were made for you to come voluntarily later? A. Yes, sir.

XQ209. Who served that subpœna on you, do you know? A. I do not.

XQ210. At your home? A. No, sir.

XQ211. Where? A. In the Y. M. C. A., Bond Street.

XQ212. In New York? A. No, Brooklyn.

XQ213. Was the first that you heard about these troubles contained in the letter you got from Newton? A. Yes, sir; that is the first I heard of it.

XQ214. How did Newton happen to know about you? A. I have known Mr. Newton for years.

XQ215. And had you talked with him about this matter before he wrote the letter to you? A. We were talking about it last fall, I had not seen him
1895 from last fall, I think.

XQ216. And you and Mr. Newton are personal friends? A. Yes, you could call it so, I have been acquainted and done business with Mr. Newton fifteen years ago.

XQ217. Did you make a statement of what you were willing to testify to? A. No, he did not ask any questions, only if I would appear as a witness.

XQ218. As I understand it, when you had this trial, you admitted the charge, but you gave what you considered was a satisfactory explanation, is that right? A. It satisfied me; yes, sir, but, of course, it did not satisfy them.
1896

XQ219. You never heard of the firm of Irving & Casson, did you? A. Not until I heard it here this morning.

XQ220. And you never heard of the Paine Lumber Company? A. Yes, I have heard of the Paine Lumber Company.

XQ221. And have you heard of the Gould Manufacturing Company? A. No, sir.

XQ222. The R. McMillen Company? A. No.

XQ223. The Morgan Company? A. No.

XQ224. The Lotham Cypress Company? A. No, sir.

XQ225. Curtis & Yale Company? A. Is that hardware?

XQ226. No? A. No.

XQ227. W. D. Crooks & Sons? A. I have heard of them; yes, sir.

XQ228. The Bristol Door & Lumber Company? A. No, I never heard of them.

XQ229. You never heard any of these firms mentioned in connection with labor disputes, only as dealers in material and lumber? A. I don't know 1898 as I ever heard of them particularly at all; I may have heard of them and forgotten it.

XQ230. You never heard of any labor disputes with them, I mean? A. No, sir.

XQ231. Did you attend the meetings of the union pretty regularly during that 30 years? A. Quite regularly; yes, sir. Once a month, or once in two months.

XQ232. You have never heard these concerns whose names I have mentioned, discussed at these meetings? A. No, sir.

XQ233. Nor Irving & Casson? A. No, sir.

XQ234. Nor Newton? A. I have heard New- 1899 ton; yes, sir.

XQ235. When? A. Oh, several times I have heard Newton's trim discussed.

XQ236. In the latter part of the year 1910, and 1911? A. Yes, and before that.

XQ237. And did you hear any other name? A. Loomis.

XQ238. What Loomis? A. John Loomis Lumber Company, is it?

XQ239. I don't know who they are, I want to get

1900

it from you. Any others? A. Yes, two or three others, what they call scab mills.

XQ240. From time to time, you have heard these mills being described as non-union mills? A. Yes, sir.

XQ241. Which one of the men told you that he wanted to work on the job—the carpenters? A. Which one?

XQ242. Yes? A. Why, I had two friends there who said they wanted to work on the job if it was not for being called off.

1901

XQ243. When did they tell you that, after they had gone out? A. Yes.

XQ244. Did you meet them that night or the next day? A. They came on the job the following Monday. They said it was an outrage.

XQ245. They described it as an outrage? A. Yes, sir.

XQ246. And you coincided with that view? A. I certainly did.

XQ247. What were the names of these men? A. John and George Craig.

XQ248. Two brothers? A. Yes, sir.

1902

XQ249. Are they members of the union? A. Yes, sir.

XQ250. Where do they live? A. One of them lives at 418 59th Street, Brooklyn.

XQ251. Were there any of the other carpenters that you talked with who told you they wanted to work on the job after they had gone out? A. Two or three others.

XQ252. Who were they? A. I don't know their names.

XQ253. How many carpenters were there there?

1903

A. I think there were nine, as near as I can recollect, maybe 10.

XQ254. Did they know what the strike was about? A. Certainly.

XQ255. They told you that, did they? A. They did not have to tell me, they knew, the delegate told them.

XQ256. Did you know from them whether they knew what the strike was about? A. Certainly I did.

XQ257. Did you talk with the delegate when he came there? A. Very little.

1904

XQ258. Had you been on any job before that, at which Newton's trim was being used? A. Yes, sir.

XQ259. Was there any strike there? A. Not for two or three years previous to that.

XQ260. But some time, a long time before that, there was? A. Yes, sir; about five years before that.

XQ261. Because it was non-union trim? A. Yes, sir.

XQ252. Did you go out with the men at that time? A. I did.

XQ253. Did you always work as a journeyman carpenter until this particular job? A. Always as a journeyman?

1905

XQ254. Yes? A. No, sir; I was foreman.

XQ255. At times you were foreman? A. Yes, sir.

XQ256. And what were your wages as a foreman? A. I always got half a dollar a day more than the wages.

XQ257. And what was that, in Brooklyn? A. $4.50.

XQ258. Yours would be $4.50? A. No, sir; I got $5.

XQ259. So your wages would have been $30 as a foreman carpenter? A. Yes, sir.

XQ260. Then there was no difference between your wages as foreman of carpenters and as superintendent of the erecting of this building? A. No, sir.

XQ261. Had you had any experience before as superintendent of masons, etc.? A. I have had experience all my life, I have been a builder myself.

1907 XQ262. You have been a builder? A. Yes, sir.

XQ263. Before you were a carpenter? A. Not before; no, sir. I was a carpenter when I was a boy.

XQ264. During these thirty years were you a builder? A. Yes, sir; I was in business for myself for seven years.

XQ265. Putting up buildings? A. Yes, sir.

XQ266. Whereabouts? A. Brooklyn.

XQ267. And you were a member of the union during that time? A. No, sir.

XQ268. Was that before the thirty years or during the thirty years? A. It was during the thirty

1908 years.

By Mr. Merritt—

RDQ269. How long after the men struck was it that you were fined? A. Oh, I don't just remember it was two or three weeks when I got the notice.

RDQ270. And the charge was, that you did not quit work when the delegate directed you? A. Yes, sir; for refusing to go out when the delegate directed me.

 1909

RDQ271. Was that the only charge you heard presented against you? A. It is the only charge I know.

RDQ272. You referred to the fact that certain mills were mentioned at various meetings of your local union. Were those only local mills where you were employed, in this locality? A. In Brooklyn.

RDQ273. And you have never heard any mention of mills but local mills? A. That is all I have heard, that I have any recollection of.

1910

Re-cross-examination by Mr. Beattie—

RXQ274. These non-union men were hired by you? A. I said they were not.

RXQ275. They were hired and you were superintendent for them before charges were made against you? A. No, after the charge; I don't know whether it was before or not. I think it was about three weeks after the strike that I received the notice.

RXQ276. And the buildings were manned with non-union men about a week after the strike? A. About ten days.

1911

Mr. Maloney: I object to the testimony of this witness as incompetent, irrelevant and immaterial, and having nothing to do with the issues in this case, and move to strike it out on that ground.

Subscribed and sworn to before me this day of , 1911.

1912 Thos. F. O'Brien for Complainant—Direct.

Hearing resumed—2 P. M.

Same appearances.

THOMAS F. O'BRIEN, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. Thomas F. O'Brien.

Q2. And your age? A. 32.

1913

Q3. What is your business? A. Superintendent of building construction.

Q4. And by whom are you employed? A. City and Surburban Homes Company.

Q5. How long have you been employed by them? A. Eight years.

Q6. Do you have charge of their buildings? A. The particular one upon which I happen to be.

Q6. There are other building inspectors besides yourself employed by the City & Suburban Homes Company? A. There has not been since I have been with them; it might happen that there would be.

1914

Q7. Do you have charge of all buildings that are being erected by the City & Suburban Homes Company? A. Well, no; I can't say that.

Q8. Are there other people employed by them in charge of other building operations? A. That is hard to answer. There is one man has charge of all the building operations.

Q9. Who is that? A. Ohm.

Q10. P. H. Ohm? A. Yes.

Q11. You never have charge of more than one building operation at a time? A. That is the idea.

1915

Q12. And your work consists in going to the place where the building operation is being conducted and to act as general supervisor? A. That is it.

Q13. And at present you are doing work on a building up at 64th Street? A. Yes, West 64th Street, New York City, between 10th and 11th Avenues.

Q14. What sort of buildings are those? A. Model tenements.

Q15. You were in the employ of the City & Suburban Homes Company in the summer of 1910, in the same capacity, were you not? A. Yes.

1916

Q16. And in connection with what building operations? A. Building on West 63d Street.

Q17. In the Borough of Manhattan? A. Yes, sir.

Q18. Did any strikes take place in connection with those building operations in August, 1910?

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, in no way connected with the issues here.

A. Yes.

1917

Q19. Were you on the building when they took place? A. Yes.

Q20. Did you see the men quit work? A. I did.

Q21. Who quit work? A. The carpenters.

Q22. Only the carpenters? A. That is all.

Q23. How many? A. I could not say.

Q24. About how many were employed? A. About twenty odd.

Q25. What were the character of the buildings? A. Model tenements.

1918 Thos. F. O'Brien for Complainant—Direct.

Q26. How far completed were they? A. Putting on the woodwork.

Q27. Had any of the woodwork been put on? A. Yes.

Q28. Just what was the situation, if you will describe it in the best way you can? A. The roof was on, and the plaster had been put on the walls and the floors had been laid, and we were putting up door casings and such things as that, window casings, hanging doors.

Q29. How many buildings were there? A. We
1919 call it one building; there were three entrances to it.

Q30. And it was a model tenement? A. Yes.

Q31. Did you see anyone or hear anyone direct the men to quit work? A. I did not.

Q32. Had you received any statement from anyone that the men were going to quit work, prior to the time they quit work? A. Yes.

Q33. From whom? A. The delegate of the Carpenters' Union.

Q34. Do you remember his name? A. No, I do not; I have an idea his name is—if you want my idea of what it was, I might guess at it.

1920 Q35. Give me the best of your recollection. A. I think his name was Rice.

Q36. And how long prior to the date when the men left, was it that Rice saw you? A. A day or two.

Q37. This was the first intimation you ever had of any trouble of any kind? A. Yes.

Q38. Where did Rice see you? A. I don't know.

Q39. You met him and talked to him? A. Yes. on the street I met him.

Q40. And did you stop him or did he stop you? A. Why, my recollection is, I stopped him.

Q41. And what was the conversation?

Mr. Maloney: Objected to, incompetent, irrelevant, immaterial, hearsay, in no way binding on these defendants.

A. Why, I knew he was a carpenters' delegate and I asked him what he was doing around the building, and he stated there was some objection to the doors that were being put up.

Q42. Was it right on the street at the buildings that you saw him? A. Yes, right in front of the buildings.

Q43. How did you know he was a carpenters' delegate? A. Why, I had seen him around before and he had been pointed out to me as a delegate from the Carpenters' Union, although he was not the regular delegate, I knew, belonging to that district.

Q44. Had you had other conversations with him about other matters? A. No, I had never spoken to him prior to that time.

Q45. What else was said at this meeting between you and him? A. He said he was going back to the headquarters of the union and report the matter, that was all.

Q46. That was all you recall of the conversation? A. Yes.

Q47. Didn't he state what the objection was to the doors? A. He said they were non-union doors.

Q48. Did he state anything as to where the doors were purchased from, or who they were made by? A. I could not say.

Q49. You don't recall anything of that kind? A. No.

Q50. You have given me all the conversation you recall at that time? A. Yes, sir.

Q51. And it was about two days after this, that the men actually quit work? A. Yes, sir.

Q52. Did you see Rice there at that time? A. I did.

Q53. Where did you see him? A. He went up in the building.

Q54. What hour of the day? A. I could not say.

Q55. Do you know whether it was before or after the men had gone to work for the day? A. The men were working.

Q56. You don't know whether it was morning or afternoon? A. I have an idea it was in the morning.

Q57. That is the best of your recollection? A. Yes, sir.

Q58. Did you see him approach the men? A. I did not, no.

Q59. Were you in the same room with him when he talked to the men, if he did talk to them? A. I was not.

Q60. How long after you saw him go into the building was it that the men quit work? A. They quit work that night.

Q61. They remained at work during the remainder of that day? A. They did, yes.

Q62. Did you hear any of them say on that day that they were not coming back to work?

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants.

1927

A. No.

Q63. Did you have any conversations with any of them? A. Yes.

Q64. Was any mention made of the doors or Rice by them to you?

Mr. Maloney: I object, incompetent, irrelevant and immaterial, and as calling for hearsay conversations of somebody not identified at all, so that it makes it impossible for us to know how to meet such testimony.

1928

A. They said that Rice had ordered them to quit work, as the doors were non-union doors.

Q65. When did they say that? A. During the day.

Q66. Do you remember the names of any of them? A. No, I do not. I did not make any note of it.

Q67. The following morning, did the men return to work? A. They did not.

Q68. When did they next return to work, if at all? A. I think it was four or five days later.

Q69. The same men returned? A. Yes; it might have been a week.

1929

Q70. Did you do anything in connection with the matter in the meantime? A. No.

Q71. You did not have any talk with any of the delegates? A. No.

Q72. Or did not go to union headquarters? A. No.

Q73. Have you given me all of the conversations that you had with any delegate concerning this matter? A. That is all I know of, he is the only one I spoke to, Rice.

1930 Thos. F. O'Brien for Complainant—Direct.

Q74. And the only time that you did speak to him, was this one time concerning which you have testified? A. No, he was back in the interval, from the time the men left and the time they came back he was around once.

Q75. And you talked to him then? A. Yes, I asked him if there was any change in the situation, and he said no. That is all I said.

Q76. Was that all that was said? A. That is all. I did not ask him any whys or wherefores, or anything else, I just asked him if the situation was
1931 changed, and he said it was not.

Q77. Was any mention made of the fact that the men had struck? A. No, except that, of course, that is what I meant when I asked him if the situation had been cleared up; of course, he knew what I meant.

Q78. That is the exact conversation as far as you recall it? A. Practically, yes. I had very little to say to him.

Q79. Was any mention made of the name of the person from whom the doors were purchased, or by whom they were manufactured? A. Why, I think I told him that the doors had been bought
1932 from Raabe Brothers.

Q80. That is all you recall that was said? A. That is all, yes.

Q81. You say that the same men returned back to work four or five days after that? A. It is my impression it was four or five days, it might have been a week.

Q82. Was that the end of this? A. Yes.

Q83. And you had no other strikes of any kind in this connection? A. No.

Q84. And no other trades left at this time, except the carpenters? A. That is all.

Q85. Do you have anything to do with the purchase of materials or the letting out of contracts? A. No.

Q86. There was no mention made of any objection made to any materials but the doors at this time? A. That is all.

Mr. Maloney: I move to strike out this testimony as incompetent, irrelevant and immaterial.

(No cross-examination.)

Subscribed and sworn to before me this day of , 1911.

EDWARD S. WILSON, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Edward S. Wilson.

Q2. And your age, please? A. Forty-two.

Q3. What is your business? A. I am connected with the City and Suburban Homes Company, as the purchasing agent.

Q4. How long have you served in that connection? A. About five years.

Q5. Have you had any conversation with any of the complainants or anyone representing them as to the testimony you would give in this case? A. I have not.

1936

Q6. Or with any of the defendants or anyone representing them? A. No; the only conversation I had with you, was relative to making an appointment to conserve my time here to-day.

Q7. Now you have heard the testimony of Mr. Thomas O'Brien which has preceded you, haven't you? A. Yes, sir.

Q8. Did you have any talk with anyone from the Carpenters' Union or representing themselves to come from the Carpenters' Union, concerning any of these matters?

1937

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. You will have to particularize that statement a little. Do you mean relative to this particular incident that O'Brien testified to?

Q9. Yes? A. Not at the time the circumstance occurred.

Q10. Well, during the time previous to the strike, or during any of the period when the men were out on strike? A. Well, prior to the strike, several months, I think I did see a delegate from the Carpenters' Union, and my recollection is, that

1938

he desired to know whether the trim for the buildings would be purchased from a union concern. I am certain of the fact that I told him that I did not consider it any of his business where I bought my trim. I think that was the extent of the conversation.

Q11. Do you know who that man was? A. No, I could not say; I have never seen him before or since.

Q12. You have no recollection of his name? A. I have not, no.

 1939

Q13. Could you describe him? A. I could not; I would not recognize him if I saw him.

Q14. Where was this conversation? A. In my office.

Q15. He came in to see you? A. Yes.

Q16. That is the first time that you ever had any conversation with anyone from the Carpenters' Union as to purchasing non-union trim?

Mr. Maloney: I object to this question as embodying a statement in substance that someone from the Carpenters' Union did see and talk with the witness, whereas there is no competent evidence of any such fact. 1940

A. I am sure it is the only time I ever saw any delegate from the union or anyone representing himself to be a delegate.

Q17. You have not seen anyone since then? A. No.

Q18. Do you know of your own knowledge of any facts showing any of the terms of settlement concerning this strike? A. I cannot say that I do, I don't recollect any conversations relative to settlement at all, except that I know there was a 1941 strike, and that the men returned to work. I did not meet any of the delegates or discuss this matter with them, and I am pretty sure that no one else from the City & Suburban Homes Company did, either. Those doors were bought through Raabe—there are two brothers, I forget the initials —and it was understood on the job, through the conversation that Mr. O'Brien had with the delegate, that he claimed that if they had any grievance they should discuss it with Raabe, not with us, and I presume that any discussion that took

place was between the delegates and Raabe Brothers.

Q19. And to the best of your knowledge, neither you nor Mr. Ohm nor anyone connected with your company—— A. I know absolutely that none of us discussed the matter any further than as I have just mentioned. We did not appear before any unions or interview any delegates.

Q20. And no allowance was made in any of the bills or anything of that kind for reimbursement on account of this trouble? A. To us?

1943 Q21. By you? A. You mean, disbursements who to?

Q22. Why, the Carpenters' Union for the men when they were out on strike, or anything of that kind? A. Not within my recollection. If there were any such disbursements, I never heard of them.

Q23. If there were, they would be made through Mr. Raabe, wouldn't they?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial, and as speculative.

Mr. Beattie: And as assuming that there was.

1944

A. I think they possibly would.

Q24. Do you know by whom the doors objected to were manufactured? A. Do I know whom we purchased the doors from, you mean?

Q25. All right, if you prefer to put it that way? A. We purchased the doors from Raabe Brothers. We did not limit them, within my recollection, as to anything, except the general quality of the material delivered; as a matter of fact, I do know that the doors came from the Paine Lumber Company.

1945

By Mr. Maloney: I move to strike out that he knows, as a matter of fact, that they were Paine Lumber Company doors; immaterial, irrelevant.

Q26. I will ask you whether or not your company had dealt with the Paine Lumber Company from time to time in the past? A. Yes, sir.

Mr. Maloney: I move to strike that out as immaterial, irrelevant.

1946

Q27. Didn't you know that these doors came from the Paine Lumber Company at the time,—prior to the time the strike took place? A. Well, the strike did not take place until shortly after the doors were delivered, and, of course, I could not tell that they were the Paine doors until I had seen the doors, naturally. I had assumed that they would come from the Paine Lumber Company.

Q28. Have you purchased any of the doors from the Paine Lumber Company since that time? A. No, sir.

Mr. Beattie: I object to that as assuming that he had purchased doors from Paine at that time. He said he did not.

1947

Q29. These purchases you made from the Paine Lumber Company from time to time were doors, were they not? A. Yes, sir; principally doors.

Q30. Will you state why you have not purchased any more doors from Paine?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

1948

A. Well, there are several reasons why we have not purchased doors from Paine Lumber Company of late.

Q31. I am not referring simply to to-day, but I am referring to the period following this strike? A. One reason that we have not purchased the Paine Lumber Company doors is because the company that I represent, and I might say myself too, are very favorable to union labor. A certain reason I might state to be the fact that the town here is full of rumors as to the character of the labor employed

1949

by the Paine Lumber Company—I have been given to understand (I don't know whether correctly or not) that they employ children and women, old men, and I have even been told that they employ nursing women, and have stated hours that the women are allowed to leave their work to nurse the babies. I am free to confess I would not care to do business with that kind of a concern. The third reason is, that I am buying to-day a door that I consider to be a better door than the Paine Lumber Company door, made along the same lines and for about the same money, so that I do not know that I would care to say, if the strike had never occurred,

1950

that we would be buying the Paine door to-day.

Q32. You have given me three reasons. Are those all your reasons? A. Well, they are the principal reasons.

Q33. Then the fact that you had a strike there and trouble of that kind, was not one of the reasons? A. Well, I do not know, the way the strike turned out, it did not seem to be a very serious matter. Mr. Raabe did not have very much trouble in settling it, apparently.

(Question repeated.)

1951

A. I don't know, didn't I reply to that?

Q34. No?

Mr. Maloney: I think he did.

A. Well, I say further, I have been given to understand indirectly, prior to the last purchase of material in that line that I made, that there would be no trouble with the unions in New York handling the Paine door if I cared to use it.

Q35. Will you answer the question directly? A. Please read it again.

1952

(Q33 repeated.) Then the fact that you had a strike there and trouble of that kind, was not one of the reasons? A. One of the reasons for what?

Q36. One of the reasons why you stopped doing business with the Paine Lumber Company?

Mr. Maloney: I object; incompetent, irrelevant, immaterial, and already answered.

A. Well, I would have to ask you to qualify that further, whether you mean as to present business, or business immediately after the strike?

Q37. I mean, at any time during that period?

1953

A. Immediately after the strike I would have hesitated to order from the Paine Lumber Company or any other non-union make of doors, there is no question about that, but at the present time, if I felt inclined to buy doors through the Paine Lumber Company or any other non-union company, I don't think I would hesitate on account of union conditions.

Q38. Then the fact that you had that strike did deter you from placing business with them for a given period immediately following?

1954 Edward S. Wilson for Complainant—Direct.

Mr. Maloney: I object as argumentative.

A. Well, I could not answer that in the affirmative, because we only build once or twice a year, and some time would have elapsed until there would be another operation to buy doors for. If I had had another order to place just at that time, I should have hesitated to consider any non-union material.

Q39. As a matter of fact, are you purchasing from any non-union concerns now?

1955 Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. I shall have to refuse to answer that question.

Q40. And why do you refuse? A. On the ground that I do not care to disclose the policy of the company relative to certain general materials entering into a building. Sand is a non-union material; there is no union in sand.

Q41. I will limit my question to wood material.

Mr. Maloney: We object to any discussion along these lines as incompetent, irrelevant and immaterial.

1956

A. I even object to that relative to wood material, as there are other wood materials entering into the construction of a building that are made by mills manufacturing doors.

Q42. How about doors? A. We are not at the present time buying any non-union doors.

Q43. Have you purchased any non-union doors since the strike, concerning which you have testified?

Mr. Maloney: Objected to as incompetent,

irrelevant and immaterial and in no way binding on these defendants.

A. I have not.

Q44. And are the non-union doors cheaper in price than union doors? A. Well, that is a question I colud not answer, either in the negative or the affirmative. There are a great many different kinds of doors on the market, and some of them are very much more expensive than non-union doors would be.

Q45. Taking them as a general class, what is the 1958
situation? A. Well, at the present time, I can buy a union door at a price practically as low as we have been in the habit of paying for non-union material.

Q46. Then in your opinion, in the great bulk of material, there is no difference in price between union and non-union doors? A. Well, in my experience there has not been a great deal of difference, because I have found, as a rule, that even in mill work, where apparently would be a difference, there has been little difference, owing to the non-union mill paying practically the union scale, although they had no agreement with the organization. 1959

Q47. You purchase frequently, don't you? A. Whenever the company has any building construction, of course.

Q48. Prior to this strike, were practically all the doors you purchased in large quantities, non-union doors? A. Yes, practically all of the doors were.

Q49. And since then, none of them have been non-union doors, is that true? A. I think that is correct.

Q50. And you want to stand on record as testifying that this change in policy was due to rumors which you say you do not know the truth of, concerning the employment of women by the Paine Lumber Company, and so forth?

Mr. Beattie: I object to that as assuming what the witness did not testify to.

A. Why, I qualify that answer—partly, one of the reasons why I would just as leave not do business with the Paine Lumber Company.

1961 Q51. Is it the same reason as deterred you from doing business with all other non-union concerns after that date? A. Well, that question is hardly a fair one, because prior to that time, I think, relative to trim, the doors were the only part of our building that was non-union. The condition is substantially the same now as before.

Q52. In regard to doors? A. In regard to doors, we are buying at the present time union doors, and it is my opinion that if this market was thrown wide open to the western non-union door, that we would still continue to buy union doors.

1962 Q53. I am asking you, why this change of policy?

Mr. Maloney: I object to this, as incompetent, irrelevant and immaterial.

A. I have answered that twice already, I can only say what I have said. If you will qualify or particularize it, so as to limit it to a direct answer, I would appreciate it.

Q54. Up to the time of this strike, you stated that you purchased non-union doors, and since this time, you have stated you purchased union doors? A.

1963

The bulk of the doors ordered prior to that time were non-union, but we had purchased union doors.

Q55. But since then you have not purchased any non-union doors? A. Since then we have not purchased any non-union doors.

Q56. What I am trying to find out is, whether that change of policy was not due to this labor trouble?

Mr. Beattie: Objected to as answered several times.

1964

Q57. Or whether you mean that the entire change of policy is due to rumors which you say you have heard concerning the Paine Lumber Company? A. I can only say, as I did before, that if I had had to get an order on that item right after that trouble on the job, if I could have bought them for the same money, I would not have done it; but subsequent to that time, I have been given to understand that the attitude of the union was that they would handle the non-union door, but I cannot say that I had that from a delegate, I can't tell you the source of that information; but the information seems to be general, that non-union doors are being used at the present time without any question being raised by the union, so that when I bought the union doors on the last job, I did not, for the three reasons I gave you before, the one being, that I felt—and I still feel—that if there was any question of a manufacturing concern employing the kind of labor that the Paine Lumber Company is reputed to employ, I would not have done so at any price.

1965

Q58. You knew at the time you purchased these doors from Raabe that they were going to be Paine

Lumber Company doors? A. Well, substantially, yes, I think I can say that I knew they would be Paine doors, although my order with Raabe had nothing in it to intimate that they were to be the Paine door.

Q59. But your own understanding was, that they were Paine doors? A. I substantially knew that they were to be the Paine doors.

Q60. Have you ever given any other reasons to Mr. Rossi of the Paine Lumber Company for not dealing with them? A. I have mentioned the same
1967 line of conversation to Mr. Rossi. I have asked him several times if it was correct, and if it was, what I thought of his company for employing that kind of labor. I discussed it with Mr. Rossi, and while he has entered a general denial, I don't feel satisfied that the rumors are not as stated.

Q61. Haven't you ever told Mr. Rossi that you could not buy the doors on account of the fear of having your enterprises tied up? A. Well, no doubt I may have mentioned that to Mr. Rossi as one of the reasons. Mr. Rossi has told me repeatedly that the doors were being used in Brooklyn and New York in trying to sell us these doors since
1968 that time, and he has not hesitated personally to assure me that if I would buy the doors there would be no trouble whatever. I have told him I would not care even if I could save money by using the door, I would not care to take a chance of having trouble in the building; but I have also discussed the other two reasons in the matter with him, relative to the labor they employ, and relative to the fact that I could buy doors substantially within a few cents of the price we have been paying him for doors. I would also say that such doors as I bought

1969

personally from the Paine Lumber Company, I did really as a matter of precedent; that I found that our predecessors in that department had been using these doors along at a certain price, which we continued to buy at, and inasmuch as our buildings were practically each one a re-production of the other, and, of course, the expense is expected to be proportionate as compared with previous buildings, that on doors, and a number of the other branches of the building, we keep on renewing at the same old unit, really without competition at all.

1970

Q62. How long have you held your present position? A. I have been with the company, I think, about five years in January, the coming January.

Q63. In the same capacity? A. Yes. I am not sure whether it is five or six years.

Q64. Could you state how large a proportion of your business in doors was done with the Paine Lumber Company down to the strike in August, 1910? A. Well, the Paine Lumber Company practically had all of our business in doors, except a few of the smaller operations where we needed doors in a hurry; they are the union doors that I spoke of having bought.

1971

Q65. And how do you let your contracts for doors Do you submit lists for people to estimate on? A. Yes.

Q66. Do you submit any lists to any non-union concerns for doors? A. Yes, I had lists out with non-union concerns in the last order that I bought. I had a price from Mr. Rossi, even, as a matter of fact. He came in to see me and he was very persistent in desiring to show us what he could do, and I let him have the list.

Q67. That is, you let him have the list at his

special instance in calling on you? A. Yes, he was very anxious, even after I told him I did not care to buy his doors; he was very anxious to show a comparison between the price at which he would furnish the doors, so that I would know what additional cost it would be to me.

Q68. How do you usually do this? You mail your lists to various concerns? A. As a rule, yes. We generally make about a dozen lists and circulate them to anybody that I have heard of in making doors.

1973 Q69. Do you circulate them among non-union concerns? A. Not to any great extent, no.

Q70. Principally union concerns? A. Principally union concerns.

Q71. But you have made them from time to time with non-union concerns? A. Yes, I gave Mr. Rossi, as I said, a list of the last job, and I gave them to another concern over in Brooklyn, they also assured me that the doors could be set without any trouble in New York under present conditions. I forget the party's name.

Q72. And the prices submitted by this concern for doors were as high as the prices submitted by
1974 the union concerns? A. Well, in some cases not a great deal of difference, and in other cases a very wide difference.

Q73. Are the non-union prices always lower? A. They are generally a little lower.

Q74. Was Paine Lumber Company's estimate lower than the estimate you actually accepted? A. Yes.

Q75. And you only recall the names of two non-union concerns to whom you submitted lists? A. I know there were only two; I have no objection to

1975

stating that I should not have submitted the list to either party if they had not come in very persistently and desired a chance.

Q76. Then your general policy since this strike has been to submit this list only to union concerns? A. Our company's policy always has been to use strictly union material when we could get it.

Q77. How do you account for using Paine Lumber Company doors? A. That there were no door companies organized in the east large enough to handle the volume of our business in the time required to get out the work. Our door orders are generally in the neighborhood of 1,000, 1,200, 1,500 doors, and even buying in the west at one time we were compelled to order doors as a first step we took in the general buying for the building. As soon as I got my plans from the department I would make up my list and buy doors and then I would generally have to wait three or four weeks longer than I should have done to get them. But there was nobody in the east large enough to handle door orders of that size then.

1976

Q78. There are now? A. Yes.

Q79. Union concerns? A. Yes.

1977

Q80. Is this policy of your company a policy which has been adopted by you personally, or have you been instructed to adopt it by your board? A. Well, I could answer in the affirmative to both points of the question. Not only my personal policy, but it is approved by the board, but more especially the president of the company.

Q81. Who is that? A. Dr. E. R. L. Gould.

Q82. Have you ever taken the trouble to verify the charges brought against the Paine Lumber Com-

pany? A. Not further than to ask Mr. Rossi if they were true.

Q83. I take it you have not any personal knowledge beyond the rumors and what people tell you? A. None whatever; none whatever.

Q84. And you believe that there is something in them, and that that is the situation? A. I really believe that the situation is very much exaggerated, as I stated the hearsay evidence, as to any sane man employing a nursing woman in his workshop and giving her a recess to nurse a child; that is too ri-
1979 diculous for any sane person to accept. I do believe, however, that they employ children in the manufacture of certain of their materials, which I consider to be bad policy. I do not mean to intimate that I would refuse to deal with a concern if that condition really did exist, but my contention is, that if I could buy within a small margin of their price, I certainly, if that condition were so, would not give them the business as against union competition.

Q85. Well, can you explain why you have not regularly called for estimates from other non-union concerns, where you have no reason to believe that
1980 such alleged conditions exist? A. Are you speaking of doors?

Q86. Yes? A. We never bought non-union trim, you know.

Q87. Well, referring to doors? A. Just doors alone. Well, as I said before, it is only in the matter of a year or eighteen months at most that there has been anyone, to my knowledge, in the business making the same type of door in the quantity that could handle our work. If there had been——

Q88. You would have bought the union doors?

A. I suspect very seriously that the Paine Lumber Company would not have got the business.

Q89. Just what is the character of your company? It is more or less philanthropic, isn't it? A. It is, yes.

Q90. Will you explain the situation?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. The situation, as I understand it, is an effort on the part of the company to house the wage earner, you may say, people of that class, in com- 1982
fortable and sanitary homes at a minimum figure.

Q91. And the type of tenant you expect to get in your building, are the wage earners? A. Practically, yes. I guess they make up probably 95% of our rent. That was one of the reasons that it was the policy of the company to forward the union labor in every way we could.

Q92. And to do everything that is in harmony with union labor, that is legitimate? A. Yes, certainly. When our company goes to Brooklyn, where nobody employs union labor, they build houses there 60 at a clip, 30 in a row, 60 to a block; 1983
I think we can safely say that those houses cost us certainly 20% more than the local men would pay to build the same house, and the answer is, that our buildings throughout are run on a strictly union basis, with the exception of the doors, as I said before; there was no union concern to my knowledge making that type of door in sufficient quantities to handle our work in the east, or in the west either, for that matter.

Q93. And this policy, then, is largely dictated by your desire to avoid doing anything which could be

construed as any unfriendly act to the wage earner or to the people who inhabit your houses? A. No, the general principal involved in unionism appeals to our company.

Q94. What I meant was this—— A. We employ union labor not because we could not handle our tenants, because it is not any business of the tenants.

Q95. I did not mean that, either. I meant, that it is your desire to have the entire sympathy of the working class and to avoid any question—— A. We
1985 feel that the union game is a good one for labor; it has improved their condition, has been a benefit to them, and through improving their condition, to the community at large.

Cross-examination by Mr. Beattie—

XQ96. Is this Rossi that you have testified about, a representative of the Paine Lumber Company, Mr. Wilson? A. Yes, sir.

XQ97. He is the one that sells their products in this city? A. Yes, one of the men; they may have others.

1986 XQ98. What did he say to you when you told him that you had heard about women and children working in his factory, and so on? A. He said they were malicious reports that were circulated through a desire on the part of an association, I think is what he referred to, to injure the Paine Lumber Company's business in New York and elsewhere.

XQ99. Didn't he admit that there were women working on what are known as circular or buzz saws in the factory, making these doors? A. He

1987

answered substantially as I have replied, I did not discuss the matter in detail with him.

XQ100. Didn't he say anything about Mr. Paine having admitted in his own evidence in this case that he had six women working on circular or buzz saws at Oshkosh? A. I think the conversation I had relative to that matter was previous to this action you refer to.

XQ101. Then you heard of these rumors of women and children working in his factory before this action was brought? A. Yes.

1988

XQ102. And his statement about someone circulating these reports about the factory could not have arisen through this action? A. Well, I would not be prepared to say yes to that, because I do not know when the action started. I might say, before I had heard of the action.

XQ103. The action was started about April of this year. Did you have conversation prior to that with Mr. Rossi about the women and children? A. Oh, yes.

By Mr. Maloney—

1989

XQ104. Who were the other men referred to in Brooklyn who said that it would be all right for you to do business in New York with them. Can you recall their names? A. Why, I can't recall the party's name, and his contention was not so much that there would be no trouble in doing business with him, as it was that there would be no trouble in setting any of the non-union doors at the present time.

XQ105. Was it Albro J. Newton? A. No, it was not Newton; I know Newton.

1990 William D. Maddox for Complainant—Direct.

XQ106. Was it Bossert? A. No.

Subscribed and sworn to before me)
this day of , 1911.)

Adjourned at 3:20 P. M., to Friday, December 15, 1911, 10:30 A. M., Room 1622, Broad-Exchange Building.

PAINE vs. NEAL.

1991 Hearing Friday, December 15, 1911, 10:30 A. M.

Same appearances.

WILLIAM D. MADDOX, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. William D. Maddox.

Q2. And your age? A. Fifty-three.

Q3. What is your business? A. Draughtsman.

1992 Q4. You were employed for a while by Morgan Company, were you not? A, Yes, sir.

Q5. During what period were you so employed? A. March, 1909, to about the middle of April, 1910.

Q6. Just a little over a year? A. Yes, sir; just a little over a year.

Q7. What was your business prior to that time? A. Same line of business.

Q8. What is that? You were employed as a salesman to try and sell the products manufactured by the Morgan Company, were you not? A. At that time; yes, sir.

Q9. And do I understand that prior to that time you were engaged in a similar line of business? A. Yes, sir.

Q10. How long prior to that had you been engaged in a similar line of business? A. For twenty-five years I have been in that line of business. A draftsman and a salesman in our line are the same. We go out and solicit the plans, and if we get the plans, we take the quantities off, and if we secure the job, we have to make the necessary sizes and drawings and have them manufactured, so that we are under the head of draftsmen.

Q11. And during this period, you say you were engaged in the business of trying to sell merchandise in the city of New York? A. Yes, sir.

Q12. And that was the locality covered by your operations when you were employed by the Morgan Company for that year? A. Yes, sir.

Q13. State whether or not you found any difficulty in securing sales on account of the fact that the merchandise of the Morgan Company was non-union?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. Yes, in some instances there was.

Q14. I wish you would give me as nearly as you can, what customers you solicited, said to you in this regard?

Mr. Beattie: Same objection.

Mr. Mayer: Same objection.

A. Well, there were numerous ones, and I can't

1996

tell you the man's name, but I could tell you the firm, that is all I could tell you, and the words he used, that is all I could tell you.

Q15. Give it to me, as near as you can.

Mr. Beattie: Same objection, and not identifying the men, so that it is impossible for us to controvert it; and not the best evidence.

Mr. Mayer: Same objection.

A. It was the man I was introduced to as the representative in that line of Thompson & Starrett, at the Hotel McAlpin, 34th Street. I went to secure the plans and to give an estimate and he told me—shall I tell you what he told me?

1997

Q16. Yes?

Mr. Beattie: Same objection.

Mr. Mayer: Same objection.

A. That he would be pleased to have the Morgan people figure, but on account of being a non-union shop, they would stop their work in Philadelphia, Boston, or New York, or wherever they might have work. Mr. Michael Tully, whom I know, told me the same thing. And there were several others whose names I cannot remember. In fact, that is what I got all the time, willing, but could not. Some would not commit themselves.

1998

Mr. Maloney. I move to strike out all these answers as incompetent, irrelevant, immaterial, hearsay, and not the best evidence, and make a motion now to strike out all evidence in this case where the witness purports to give the conversations of other people, which is not

 1999

the best evidence; and in this last answer, particularly that part which says that some people did not commit themselves, as being vague and not constituting any facts.

Mr. Mayer: Same motion.

Q17. What do you mean by stating that they would not commit themselves? A. Well, I don't know—I would take it—that they possibly did not want to tell why they did not want to let me figure. I asked them the same thing, if unionism had anything to do with it, and they did not say anything, 2000
one way or the other.

Q18. And you mean that they refused to allow you to figure without giving any reason for it? A. That's it.

Q19. And when you say they refused to allow you to figure, you mean to even allow you to submit estimates on their work? A. That is right.

Q20. What class of customers was it you were soliciting particularly in New York City? A. Well, builders, I suppose, that is the class, men who were building, who wanted the interior woodwork supplied.

Q21. How many customers did you solicit? A. 2001
Well, that is hard to say. In about the thirteen months I was there, fifty, surely fifty.

Q22. All on the Island of Manhattan? A. All on the Island of Manhattan; just Manhattan Island and the Bronx.

Q23. Did you have any success with any of them? A. No, sir.

Q24. Did any of them give you a chance to figure? A. No, sir.

Q25. Did any of them give you any other reason

2002 William D. Maddox for Complainant—Cross.

for refusing to allow you to figure other than the fact that you were non-union? A. None whatever.

Q26. Could you tell how many customers, approximately, asked whether you were union or non-union? A. Well, approximately everyone of them. That is the first question they would always put to me.

Q27. And then some of them refused to allow you to figure without giving any reasons for it? A. Yes, sir.

Q28. And others, as I understand it, gave you the
2003 reason, that you were non-union? A. Yes, sir.

Mr. Beattie: I ask that this be stricken out on the same ground.

Mr. Mayer: Same motion.

Cross-examination by Mr. Beattie—

XQ29. Did any of these builders that you saw tell you that there was a unionism among the builders by which they had agreed not to buy any non-union material? A. No, sir.

XQ30. Did you know that? A. Do I know it?

XQ31. Yes? A. Personally, myself?

2004 XQ32. Did not you know that the larger builders, including the very one you have mentioned, Thompson & Starrett, had agreed among themselves not to buy any of this material, non-union material? A. I don't know what agreement they had between themselves, nobody ever told me.

XQ33. Who was the other one? A. Michael Tully.

XQ34. What kind of a builder was he? A. Just ordinary tenement houses, buildings in the Bronx.

XQ35. Did you sell any 1⅜" sash to him? A.

Never sold sash at all; we don't handle sash, just the interior woodwork, doors, trim.

XQ36. You represented the Morgan Company? A. Yes, sir; the Morgan Company of Oshkosh, Wisconsin.

XQ37. What are you doing now, since you separated from them in 1910? A. Well, practically nothing. I am working on a commission basis, if I can get any work. I don't get any business. I might as well say I am working at nothing.

XQ38. Didn't you try any other parts of New York, besides Manhattan or the Bronx? A. Try any other parts?

XQ39. Yes? A. While with the Morgan Company?

XQ40. Yes? A. No, that was the only privilege I had.

XQ41. Did they have another salesman to sell to Brooklyn, Queens and Richmond? A. Not that I know of; no, sir.

XQ42. Didn't you understand that non-union material was extensively dealt in in those other Boroughs—Brooklyn? A. Not that I know of. I am not acquainted in Brooklyn at all, I don't know anything of that line of business at all.

XQ43. The goods you had to sell were just as saleable in Brooklyn as here, were they not? A. Certainly, saleable all over the country.

XQ44. What particular kind of woodwork were you selling, in the main? A. Well, interior trim.

XQ45. All except the sash? A. Yes. Interior woodwork in general building.

XQ46. Well, there is considerable of that that the unions will handle, you understand, don't you? A. Not in my line, as I understand it.

2008 William D. Maddox for Complainant—Cross.

XQ47. Planed flooring? A. That is not called trim at all.

XQ48. Exterior blinds? A. No, we don't handle anything like that in New York at all.

XQ49. You say you saw fifty persons during the year or so you represented Morgan? A. Possibly.

XQ50. Do you know whether those fifty persons were members of the Master Carpenters' Association? A. I could not tell you whether they were or not; no, sir.

XQ51. Were they all large builders? A. No, sir.

2009 XQ52. How many of them were large builders? A. Oh, I could not tell you that. What would you term a large builder? Then I might cover the ground.

XQ53. Well, those that carry on the largest building operations in the city? For instance, this firm that you spoke of, Thompson & Starrett, they are one of the large builders? A. Yes, they are one. That is about the only large one. The others were individual builders, building apartment houses. Thompson & Starrett are general contractors.

XQ54. Can't you give us the names of anyone else, except Thompson & Starrett and Michael Tully,

2010 of the fifty you saw? A. Why, I can't exactly call to mind the different ones. You see, they build under a name, not a builder's name, possibly not their own name at all. I cannot call to mind the different ones now.

XQ55. What building was Michael Tully constructing when you wanted to get the contract, and when was this? A. I think that was in the summer of 1909; I can't tell you the street; it was two five-story ordinary flats, but I can't tell you the location now, but I know just about where you get off, to

2011

go to it, and I could come within two blocks of it.

XQ56. Will you give us the directions? A. I would go to Intervale Avenue on the subway and go practically north.

XQ57. And where did you see Michael Tully, on the building? A. Oh, yes; on the building. I had known him for years.

XQ58. Was there anybody you spoke to about this matter that you had not known for a long time, that you can recall the name of? A. Oh, some I spoke to—about what?

2012

XQ59. About selling your material? A. About selling the material?

XQ60. Yes? A. There were several I did not know personally, only by name.

XQ61. And everybody said that unionism was the cause of their not buying from you? A. I did not say that at all.

XQ62. I got that impression from what you said? A. I did not say that. They did not all say that.

XQ63. How many did say that? A. Oh, I don't know, possibly a dozen, maybe more, I can't call to mind just exactly what was said at the time.

2013

XQ64. What did the other thirty-eight say out of these fifty? A. Some of them would not let me figure at all, they said they did not care about the figures—words to that effect, I don't remember just the words they used.

XQ65. Did not any of them give you any other reasons, of these thirty-eight? A. No, some of them gave me no reasons at all.

By Mr. Maloney—

XQ66. I understood you to say that you were in the employ of Morgan & Company? A. Yes.

2014

XQ67. One of the complainants in this case? A. I don't know what they are—Morgan Company.

XQ68. They are lumber people in the west? A. Yes, sir; Oshkosh, Wisconsin.

Mr. Merritt: It is admitted that it is one of the complainants.

XQ69. How long were you in their employ? A. If I am not mistaken, from about March, 1909, to the middle of April, 1910.

2015

XQ70. And was it during that period that you received these replies from men from whom you solicited work? A. Yes, sir.

XQ71. Did you represent Morgan alone, or other people also? A. Just Morgan Company alone.

XQ72. During that time did you sell material of Morgan & Company on the Island of Manhattan? A. No, sir.

XQ73. Had they sold material on the Island of Manhattan before, do you know? A. I could not tell you.

XQ74. Did they have other salesmen? A. Not that I know of. The only man I know is the gen-

2016

eral manager in the eastern states.

XQ75. Who was he, please? A. Charles Abele.

XQ76. You were employed, then, by Mr. Abele, who was the representative of Morgan & Company here in New York? A. Yes, sir.

XQ77. They have an office here in New York? A. Yes, somewhere her.

XQ78. You spoke of an incident at this Hotel McAlpin—is that the one put up at 34th Street and Broadway? A. Yes, sir.

XQ79. And who was it that introduced you to

2017

the man that you did not know? A. Mr. Albert Morris. He was employed then by Thompson-Starrett Company.

XQ80. And he introduced you to somebody purporting to represent the Thompson-Starrett people? A. The general manager of that department.

XQ81. And what was his name? A. I could not tell you that.

XQ82. Where did the introduction take place—on the premises? A. No, at their offices. I think it is 50 Wall Street.

XQ83. What did he say? A. What did who say?

2018

XQ84. The man to whom you were introduced? A. He told me that he would not dare to let me figure on the plans, as they would not only stop their work in Boston, New York, Philadelphia, but in other places.

XQ85. That who would? A. The unions.

XQ86. Did he refer in any way to the Carpenters' Union? A. He referred to no special union at all.

XQ87. Did he mention the fact that your concern was what the unions claimed to be a non-union concern, the Morgan Company? A. Did he represent that, you say?

2019

XQ88. Did he state that the unions believed your company, Morgan & Company, to be what they supposed was a non-union concern? A. That is about the first question he asked, whether they were union or not.

XQ89. And you told them they were non-union? A. I told him no, they were not unionized.

XQ90. Did the conversation last only a few minutes? A. Oh, a matter of ten minutes.

XQ91. Did he say anything about the agreement

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that they had with the unions here in New York? A. No, sir; he did not.

XQ92. And no special union was referred to? A. No, sir.

XQ93. In substance, he told you that they were working in harmony with the unions? A. No, he did not say anything of that kind.

XQ94. That is to say, that they were on friendly terms with the union, and did not wish to have trouble with them? Did he give you that impression? A. That is the impression I got.

2021 XQ95. When you went out to sell material for Morgan & Company, you had had a large experience in that same line, hadn't you, here in New York? A. About twenty-five years.

XQ96. And were you familiar with the rule or principle of the unions that they would not work on non-union material or with non-union men?

Mr. Merritt: I object.

A. I don't know, that as I would understand was their general belief.

XQ97. You mean, that that was well understood
2022 in the trade, was it? A. If I may be allowed, I would like to state just exactly how the thing occurred.

XQ98. What occurred?

Mr. Merritt: I object to this examination, as it concerns matters about which the witness has no direct knowledge.

XQ99. I don't want you to testify to anything you don't know. I want to know if you understood in the trade from your experience, that the union

men would not work with non-union men or on non-union material, that is all, from your own experience as a salesman?

Mr. Merritt: You mean the Carpenters' Union?

Mr. Maloney: I mean any union now.

A. I don't know; I could not say that.

XQ100. You had never heard about that? A. I had heard about it; yes, sir.

XQ101. In the trade? A. In the trade.

XQ102. What was it you had heard in the trade? 2024
A. Just merely that, that the organization did put up nothing but union made trim.

XQ103. That they would only put up union made trim? A. Yes, sir.

XQ104. And how long had you known that in your business as a salesman, prior to the time that you were employed by Morgan & Company? A. Not at all, no time at all.

XQ105. Never had heard of it before? A. Oh, yes; talk of it.

XQ106. I only want to get what you had heard before you were working for Morgan? A. No, there was nothing before that that I had ever heard at all. 2025
No, because I was employed by another firm at the time.

XQ107. Was the other firm a union concern? A. No, sir.

XQ108. What firm was that? A. That was the Montgomery Lumber Company.

XQ109. Of New York? A. Well, the factory is at Fort Plain, New York.

XQ110. And how long had you been working for them? A. Two and a half years.

2026

XQ111. Had you been working for other people before that? A. Yes, sir.

XQ112. Can you give us the names of some of those? A. Well, years before that—in the same line of business?

XQ113. Yes? A. Well, years before that I was with the New York Lumber & Woodworking Company, which is now the Batavia Woodworking Company.

XQ114. Of Batavia? A. No, their factory was in New York and they moved to Batavia.

2027

XQ115. Was that a union concern? A. There was no such thing as union then at all.

XQ116. It was many years ago? A. Yes, sir.

XQ117. There was an interval of time that you were not employed by this lumber concern as salesman? A. Yes, sir.

XQ118. The one immediately preceding your employer, the Morgan, was the Montgomery? A. Yes, sir.

XQ119. And before that, there was a long period of time elapsed that you were not employed by any concern? A. Not in that line; I was superintendent

2028

of construction.

XQ120. When did you first learn in that trade of this information that union men would not work on material unless it was union made material? A. Oh, it must have been the middle of that summer of 1909.

XQ121. Some time before you went out on behalf of Morgan? A. No, before I was with the Morgan Company.

XQ122. Then, this was an experience for you when you first heard it in the employ of Morgan &

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Company, it was a new experience? A. To me—this non-union business?

XQ123. Yes? A. Yes, sir.

XQ124. You had never heard before that time in the trade that union men would not work upon material unless it was union made? A. Not to know about, no. I cannot recall it.

XQ125. Who was the first man with whom you talked on that subject and got this information? A. What information is that—the non-union business?

XQ126. Yes? A. I could not tell you who the 2030
first man was.

XQ127. Didn't that surprise you, make an impression on you? A. What, the refusal?

XQ128. The statement that union men would not work upon material which was not union made? A. Yes, it did.

XQ129. It made an impression? A. Yes.

XQ130. Can you recall who it was gave you that information? A. No, I could not recall who it was.

XQ131. It was not at the Hotel McAlpin, was it? A. No, I don't think that was the first one. If I am not mistaken, I think this hearsay was going on for months, but it sounded to Mr. Abele and myself as only possible it might be one of those—I don't want to call it a threat—— 2031

XQ132. A vague rumor? A. Yes, that is the way to put it. So we thought we would take a chance to see if it was, and I think Michael Tully was about the first one who convinced us that he could not do it. I think that was about the first one, but I won't say for sure.

XQ133. You saw Tully after you saw the man at

2032

the McAlpin Hotel? A. I could not remember that, how it was.

XQ134. You did have an impression, or had heard rumors, to this effect before you saw either the man at the McAlpin or the other? A. Yes, sir.

XQ135. It was simply that you did not credit it? A. I did not believe it.

XQ136. When you went to Tully and to the McAlpin people, did they tell you that they were dealing with the union people and therefore did not wish to have trouble by purchasing this non-union

2033 material? A. No, they did not tell me in those words, they did not say that.

XQ137. They did not say they were dealing with union people? A. No, not at all.

XQ138. Give us in substance your best recollection of exactly what they did say— and do not try to color it either against us or in favor of the complainant? A. I color nothing. That is the first question asked me: "Are you a union shop"? I said "No, sir, we are not." He said "We would not dare to let you figure on trim, because we are almost sure they would not put it up and we would be tied up." That is the substance of Michael Tully's

2034 words to me.

XQ139. And that was the same thing, was it, from the McAlpin Hotel people, or Thompson-Starrett's representative? A. Practically the same thing.

XQ140. Is it fair to say that you understood at that time that they were dealing with the unions, and therefore that was the reason they did not want to buy it? A. Who is this?

XQ141. Those people from whom you were solic-

2035

iting business, Tully and McAlpin? A. That they were buying from union people?

XQ142. Is it perfectly fair now for me to assume that you knew at that time from what they said to you, that they were dealing with the unions, employing union men, and therefore they did not want to have trouble with them by purchasing your non-union material? A. That is the impression it left with me.

XQ143. Well, now, when you found out that they were dealing with union men, and you had informed 2036
them that your concern was a non-union concern, you then did not attempt to sell any material to them, did you? A. No, I did not try it.

XQ144. Could you give me the time, approximately, when you visited the Hotel McAlpin? A. I could not tell you, I think it was the early part of 1909.

XQ145. And what was the state of the work at that time at that place? A. Well, at that time they were just tearing down the old buildings that were there.

2037

XQ146. Did you know whether they had given the contracts yet for the work? A. No, sir; I did not.

XQ147. You only sought the woodwork? A. That is all.

XQ148. Did you ask the general manager whether the contract had been given yet for the woodwork? A. Yes, that is about the first question we always ask.

XQ149. And he said it had not? A. Yes.

XQ150. Do you recall whether he said it had not? A. Yes, that is what he said.

2038

XQ151. Was Tully building at this place where you went to see him? A. Yes, sir.

XQ152. And in what state were his buildings? A. Oh, just about finishing the foundation.

XQ153. Had he let the contract for the wood at that time? A. No, sir; he said not.

XQ154. You are not employed by any of these complainants now in this same business? A. No, sir.

XQ155. Were you employed at that time on a salary or upon a commission? A. On a commission.

2039

By Mr. Mayer—

XQ156. Did you know, Mr. Maddox, when you went to the Thompson-Starrett people, that the Thompson-Starrett Company was a member of the Master Carpenters' Association of this city? A. No.

XQ157. Did you take the trouble to inquire? A. No, sir.

XQ158. Did you see the Thompson-Starrett Company after you had seen Tully? A. I could not tell you whether it was before or after.

2040

XQ159. Was it about the same time? A. Practically the same time. It covered four or five weeks.

XQ160. Did you know, or had you heard about the market, that there was an agreement in existence between the members of the Master Carpenters' Association and the members of the Brotherhood of Carpenters under the terms of which the carpenters would not work on certain non-union material? A. Yes, I heard something to that effect.

XQ161. And knowing that, and appreciating that fact, did you consider it at all out of the way for Thompson-Starrett Company, which was a member

of the Master Carpenters' Association, and a party to that agreement, to ask you when you came to their office, whether or not your concern was union or non-union? A. No, I don't know; that is about the first question that they always asked.

XQ162. You had no criticism in your own mind as to that, did you? A. About their asking me?

XQ163. Yes? A. Certainly not.

XQ164. And when they did ask you whether or not your concern was union or non-union, and you replied that it was a non-union concern, the fact that they answered as they did did not cause any surprise to you, with the knowledge you have now that they were members of the Master Carpenters' Association and the parties to this agreement? A. With the knowledge I have now, a few months later, I realize that there was no need of going in there.

Re-direct examination by Mr. Merritt—

RDQ165. Did this man of Thompson-Starrett Company state he was on friendly terms with the union? A. There was no term of that kind used at all.

RDQ166. Was that used by any of the people you called on? A. No, sir; not once.

RDQ167. Now I notice this question and answer in connection with Mr. Maloney's testimony: When you found out that they were dealing with union men, and you had informed them that your concern was non-union, you then did not attempt to sell them any material, did you? And you said: No, I did not try it. You mean, that as soon as you found out that a concern was union, or employing union men, that you did not try to sell them any

2044

merchandise? A. No, I don't think I understood that part of the question. No, I did not. I first asked if the work had been given out, and that is about the first question they asked me, and then I would tell them truthfully, we are a non-union shop. The question, that is the way it came to me.

Mr. Mayer: I move to strike out that answer as a conclusion on the part of the witness, and no statement of any conversation that occurred at any time.

2045

Mr. Maloney: Same objection, and also as the witness's interpretation of the question preceding; incompetent, irrelevant and immaterial, and not proper.

Subscribed and sworn to before me this day of , 1911.

JACOB H. WERBELOVSKY, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

2046

Q1. What is your full name? A. Jacob H. Werbelovsky.

Q2. What is your age? A. Sixty-two, going on sixty-three.

Q3. And your business? A. Business is glass, sometimes sash too, furnish some sash.

Q4. You purchase sash in which glass is glazed, is that it? A. Yes, sir.

Q5. And you sell that sash and glass together? A. Yes.

Q6. After it is glazed? A. After it is glazed, yes.

 2047

Q7. Where is your place of business? A. 93 Meserole Street, Brooklyn.

Q8. What is the name of your concern? A. That is my name, Jacob H. Werbelovsky.

Q9. And how long have you been engaged in business in this way? A. About thirty-seven years.

Q10. Has your place of business always been in Brooklyn? A. Always been in Brooklyn, yes.

Q11. To what class of customers do you sell? A. Well, mostly jobbers, glaziers and jobbers, and sometimes I have contracts from builders, too.

Q12. You sell to jobbers, too? A. Yes. 2048

Q13. Are such people as Friedlander jobbers? A. Yes.

Q14. Joseph B. Friedlander? A. Yes.

Q15. Have you sold them at various times? A. Yes.

Q16. Are such people as Arnstein jobbers? A. Yes, sir.

Q17. And Thomas C. Edmonds? A. We sell them sometimes, too; yes.

Q18. You sell all these men at times? A. At times, yes.

Q19. What other jobbers are there in New York and Brooklyn? A. A good many. 2049

Q20. Name some of the principal ones? A. Well, Reubin Levine; Macks Brothers; Jacob Haft.

Q21. Are those Brooklyn concerns? A. No, New York.

Q22. All in New York? A. Yes. Friedlander is a Brooklyn concern, Joseph B. Friedlander.

Q23. Are these jobbing concerns which you name the concerns which deal only in glazed sash, largely? A. No, they deal in glass alone, too. They deal in some sash and in some glass.

Q24. Did you ever do business with Parshelsky Brothers in Brooklyn? A. Yes, sir; I do that right along.

Q25. You sell goods to them? A. Yes.

Q26. You state that you sell goods to these various concerns. Do you sell them sash, or glass? A. Only glass.

Q27. Now I show you this agreement which you have produced here. I will ask you if that is your name? A. Yes, that is my name.

Q28. Did you see these other two men, William
2051 Simpson and Alexander Kelso, sign that? A. Yes, sir.

Q29. Where was it signed? A. At my office.

Mr. Merritt: I will offer this agreement in evidence as Comp. Ex. 20.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Ex. 20 reads as follows:

"ARTICLES OF AGREEMENT.

This agreement entered into this 16th day of Jan., 1911, between the party of the first part
2052 ..... New York City, purchasers and distributors of window sash, and the party of the second part, International Union, United Brotherhood of Carpenters & Joiners of America, General Office Indianapolis, Indiana, and its subordinate Union known as Joint District Council of New York, N. Y.

ARTICLE I.

The party of the first part hereby agrees as

purchasers of window sash that they will not handle or sell any prison made sash, or any sash over 1⅜" thick that has not been manufactured in shops having trade agreement with the party of the second part, the United Brotherhood of Carpenters and Joiners of America, based upon agreements that exist in New York City.

ARTICLE II.

The party of the first part further agrees that they shall not, as purchasers and distributors, have the above mentioned material subcontracted for through any firm or corporation not under agreement with the party of the second part. 2054

ARTICLE III.

Party of the first part further agrees that they will furnish a list of all contracts made for sash over 1⅜" thick to the Joint District Council, 142 East 59th St., New York City, stating the manufacturer from whom such purchase has been made. 2055

ARTICLE IV.

Party of the second part agrees for its members to erect all material sold by parties of the first part according to the above conditions, and the party of the second part further agrees that none of the members of their organization shall install or erect any widow sash made in prisons, or any window sash over 1⅜" thick made in non-union factories.

2056

In case of the breach of the terms or any of the terms of this Agreement, by the party of the first part, then the party of the first part forfeits and agrees to pay as liquidated damages to the party of the second part, the sum of Two Thousand Five Hundred Dollars, ($2500.00).

In witness whereof the party of the first part has caused these presents to be signed by its proper officer and its corporate seal to be affixed, and the parties of the second part have

2057

caused these presents to be signed by their proper officer empowered to execute the same.

If the Courts of the State or City of New York shall decide that any clause of this Agreement should be unconstitutional or illegal, it shall not invalidate the other portions of this Agreement, but such clause or clauses shall be stricken out.

Witness:

J. H. WERBELOSKY,
For the party of the first part.

For the party of the second part.

WM. SIMPSON,

2058

ALEXANDER KELSO."

Q30. I also see a card. How did that card come into your possession? A. It was brought along—I could not say.

Q31. Was this card handed to you by Mr. Kelso about this time? A. Yes.

Mr. Merritt: I offer that card in evidence as Comp. Ex. 20-A.

Same objection.

Ex. 20-A reads as follows:

 2059

"Office Hours
8 to 9 a. m. daily
(union label) 119 Telephone:
2021 Plaza

ALEXANDER KELSO
Business Agent
Representing
Joint District Council
of Carpenters & Joiners
U. B. of C. & J. and A. S.
142-144 E. 59th St.,
New York City" 2060

Q32. I also find attached to this agreement, a typewritten memorandum purporting to be signed by Alexander Kelso, business agent. Did you see this man sign that? A. They signed it all in the office, yes.

Q33. Is that the same man who signed the agreement? A. Yes.

Mr. Merritt: I will offer this in evidence as Comp. Ex. 20-B.

Same objection.

Ex. 20-B reads as follows: 2061

"Brooklyn, Jan. 16, 1911.

In consideration of your signing agreement this day with the Joint District Council of Carpenters & Joiners, U. B. of C. & J. & A. S., we hereby agree to permit you to start the hanging of the glazed sash for the Highwood Rlt. Const. Co.'s job which was exempted from the aforesaid agreement on or after Jan. 17th, 1911.

99th St. Riverside Drive

2062

Yours truly,
Alexander Kelso
Business Agent."

Q34. Will you give the circumstances which led you to sign that agreement?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

2063 A. Well, because I had to do it, because I had sash for Julius Weinstein on Riverside Drive, a building there that could not be finished, we could not get any money, and he said he could not finish the building, that he was threatening me that he would have to do something else, and so so, so I could not do anything else but sign it; they came over and they said if I signed the agreement they would put it in, they will hang the sash.

Mr. Beattie: I move to strike out the answer, incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection; and no identi-

2064 fication.

Q35. Is that 99 Riverside Drive? A. I could not say the number exactly, I was not there.

Q36. Is it the building referred to in this Ex. 20-B? A. Yes, Julius Weinstein, on Riverside Drive; that is the same building. I had no other job at all.

Q37. And who told you that if you would sign this agreement the sash would be hung? A. Well, the people came over. My salesman referred it to

me and I did no[illegible] any other way to do it.

Q38. Did eit[illegible]pson or Kelso tell you that? A. I could not say who told me that. But two men came over to me.

Q39. Were they the same men who signed this agreement? A. Yes, the same men who signed the agreement. I have to pay $2,500 if I do it again.

Mr. Mayer: I move to strike out all the testimony of this witness with respect to any of the conversations with any persons, on the ground that there has been no proper identification; such testimony is wholly incompetent, irrelevant and immaterial and unintelligible from the statements made by the witness. 2066

Mr. Beattie: And is not referring to any material made by any of the complainants.

Cross-examination by Mr. Beattie—

XQ40. Is your business mostly in 1⅜" sash or less? A. 1⅜" mostly, yes, 1⅜".

XQ41. And that is not covered by this? A. That is not covered by the union, no.

XQ42. And what per cent. of your business is in 1⅜" sash or less? A. Well, we just got a job now, 2067 a couple of thousand dollars.

XQ43. What per cent. of your business? A. Oh, that is very little per cent.

XQ44. Above 1⅜"? A. Very little.

XQ45. Have you had any contract for 1⅜"? A. 1⅜", yes.

XQ46. Above 1⅜"? A. Above, I would not accept it, I would not figure on it at all, because I have trouble with the union.

XQ47. You have had no trouble with the union

since you signed this agreement? A. Well, no,——

XQ48. If you do not handle any sash of a greater diameter than 1⅜", this agreement is practically waste paper, isn't it? A. Well, it is not waste paper if I got a job I will do it, but I can't do it now.

XQ49. You can do it under this agreement, can't you? A. I cannot, I have got to take union sash.

XQ50. You have got to take union sash? A. Yes.

XQ51. Don't you want to handle union material?
2069 A. No, because there is nothing in it, they charge too high for the union sash here. They charge double the amount. When I took that job they did not mention anything about the union, Mr. Weinstein did not mention anything at all about it.

XQ52. But this agreement, since you signed it in January, 1911, did not affect you in any way? A. It surely did.

XQ53. How? A. Because I am not figuring on it.

XQ54. You can't figure on a job? A. Yes. By signing the agreement, they cut me off.

XQ55. Don't you understand it? A. I under-
2070 stand it, yes. That is what that means.

Mr. Beattie: I move to strike out the answer of the witness as a conclusion and not supported by the evidence.

Mr. Mayer: Same motion.

XQ56. You understand that under this agreement they will not hang sash above 1⅜"? A. If I buy it here from the union, yes.

XQ57. Anywhere from the union? A. Yes.

XQ58. And you mean you cannot handle that union stuff? A. I can handle union stuff, yes.

XQ59. Above 1⅜"? A. Yes, I can.

XQ60. You say you cannot handle it because it is too high in price? A. Yes, that's right, that is the reason I don't handle it.

XQ61. But don't you understand there is a large demand for union material, union sash above 1⅜" in this city? A. What is the use of the demand if there is no profit in it?

XQ62. You mean that the people who are selling union sash to the master carpenters are making no 2072
profit on it? A. They are making a profit on it, maybe, through taking the contract of it all. Take the Girard Company, they are taking it all in together. Before, I could take it, I had a little cheaper, and I could figure on it.

By Mr. Mayer—

XQ63. You mean to say, don't you, that you cannot make as much profit as you would like, dealing with union sash? A. That's it, exactly. That is the answer.

XQ64. That is what you mean? A. Yes, that is 2073
what I mean.

By Mr. Beattie—

XQ65. How much sash above 1⅜" did you handle the year before January 16 of this year? A. I don't think I handled any.

XQ66. Did you handle any above 1⅜"? A. No, I did not handle any.

XQ67. Wait a minute. For the two years prior to January 1, 1911—— A. You mean before that?

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XQ68. Yes? A. Before I did not handle it, no.

XQ69. Are you a citizen? A. Yes, sir.

XQ70. Did you handle any above 1⅜"? A. No, because they always mentioned they have got to be union material, this particular job they did not say to me was union.

By Mr. Maloney—

XQ71. This particular job you did handle something larger than 1⅜"? A. Yes.

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XQ72. But prior to that time, you had never handled anything larger than 1⅜" because they had asked for union material? A. That is right.

XQ73. As to this particular job, they did not make any such requirement? A. Yes.

XQ74. And therefore you had bought cheaper sash? A. Yes.

XQ75. Is this the only job you had had where you had supplied over 1⅜"? A. That is the only job this year, yes.

XQ76. For the last three or four years? A. Yes.

XQ77. How much sash have you sold during the last year? A. Of above 1⅜"?

2076

XQ78. Any kind? A. We sold about $5,000 worth.

XQ79. In the last two years? A. Yes.

XQ80. Your business is chiefly other goods? A. Yes, glass.

XQ81. You do very little sash business anyway? A. Well, some of it.

XQ82. Well, some $5,000 worth in two years is a very small item? A. Yes.

XQ83. And it is a very small item in your business? Yes.

2077

J. H. Werbelovsky for Complainant—Cross.

XQ84. How much business in glass do you do in a year? A. Sometimes $500,000. This year not so much.

XQ85. You have done that this year? A. No, sometimes before.

XQ86. About how much have you done this year? A. I can't say exactly for the whole year. I don't know exactly yet what I sold the whole year.

XQ87. You think about $300,000? A. I think so.

XQ88. Have you done $2,000 worth of sash? A. Oh, yes; more than that. 2078

XQ89. In the past year? A. Yes, we have done more than that.

XQ90. And it was all in 1⅜"? A. Yes.

XQ91. You notice by this Exhibit 20 of complainants that you agree to furnish them a list of all contracts for sash over 1⅜" to the Joint District Council? Have you submitted any such contracts since the agreement? A. No, because I did not have any contract.

By Mr. Maloney—

XQ92. As I understand it, your business in sash 2079 is almost exclusively 1⅜"? A. 1⅜", yes.

XQ93. And that you happened to have taken this contract for sash larger than that, and it was non-union material? A. Yes.

XQ94. And there was trouble on that job? A. Yes.

XQ95. An dthen someone came to you and said that if you agreed to use only union material hereafter, that they would allow that job to go through without any trouble? A. Exactly.

XQ96. And the job was finished? A. Was finished, yes.

XQ97. Now for several years prior to the time that this paper was signed, you had not used any sash above 1⅜"? A. No, sir.

XQ98. And in all your dealings with your customers, they had required union material? A. Yes.

XQ99. So you had purchased union materials? A. Yes, sir.

XQ100. Or you did not buy it at all? A. Did not buy it at all.

XQ101. And the reason you did not do that was, that there was not enough profit in the transac-
2081 tion? A. Exactly.

XQ102. This part of the business of the firm was a very inconsiderable portion of your business? A. Yes.

XQ103. Your business was principally glazing or the combined sash and glass? A. Yes.

XQ104. Now, did I understand you correctly, that the total amount of the sash business that you did in one year would not exceed $5,000, or in two years? A. No, would not exceed $5,000.

XQ105. And your total business in some years was as large as half a million, $500,000? A. Yes.

XQ106. And since you made this agreement, you
2082 have bought no material over 1⅜" No.

XQ107. And the agreement gave you no concern at all, because you did not have any dealings in such material? A. No.

XQ108. When you say that there is little profit in dealing with the union material, do you mean by that, that you purchased the union material from the manufacturers of wood here in New York? A. Yes.

XQ109. About how many of them are there? A. What do you mean, union or non-union?

2083

XQ110. I mean union manufacturers in New York? A. Well, Empire City one, Empire-Girard Co.

XQ111. Do you think of any of the others? A. There is Greenpoint Sash & Door Company; Michael & Donovitsch.

XQ112. Now these people you have in mind all have their factories in the City of New York? A. In Brooklyn.

XQ113. I mean, in the large city, the total city? A. Yes.

2084

XQ114. Are there many factories in New York which makes this sash that are non-union factories? A. Oh, yes.

XQ115. Do they exceed in number the union factories? A. Sure.

XQ116. They do? A. Sure, yes.

Mr. Merritt: I object to that question and answer because I do not believe the witness really knows or is in a position to know, and I move that it be stricken out unless some foundation is shown for it.

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XQ17. You have been in business thirty-seven years in New York? A. Yes, sir.

XQ118. And during that time, have you dealt with a great many manufacturers of woodwork in New York? A. I have.

XQ119. Mr. Werbelovsky, will you please give us the names of some factories, woodworking factories, in New York, that are non-union, I mean in the City of New York, anywhere in Greater New York—non-union? A. Louis Bossert is bigger than any of them.

XQ120. Any others? A. And then there is Newton.

XQ121. Yes? A. And Mitchell Mayer. Why, there are a lot of non-union men.

XQ122. Name some on the Island of Manhattan? A. Cross, Austin & Ireland.

Mr. Merritt: They are not on the Island of Manhattan.

XQ123. Name some on the Island of Manhat-
2087 tan? A. You mean in New York?

XQ124. Yes. A. I could not mention so many, there are some on side streets.

XQ125. South Street? A. No, side streets. I have not got any track of it at all, I cannot tell you, I cannot tell you. But I have been mostly in Brooklyn, of course, dealing in the sash and blinds, in building material, not much here in New York.

XQ126. Do you know any in the Bronx? A. No, I don't know.

XQ127. Do you deal much with the Bronx? A. I deal in the Bronx, but I don't know whether they are union or non-union. I can't tell. I don't mix
2088 myself up with that at all, very particularly. I am only looking for the money I get.

XQ128. From whom did you buy this particular material? A. Outside in the country. I could not tell you what factory. I could send you up there in an afternoon. I could not tell you which factory we bought of outside in the country. There are several factories, but I take no notice of them.

XQ129. It was some factory in New York? A. No.

XQ130. Where was it? A. Up in the country.

2089

XQ131. And you don't know exactly where it was? A. No, I could not say. I could ring them up in my office and get the information, but I don't know if anybody would be in the office. I could not say which one it is. I know the parties maybe, but I could not tell which one they would place with. I cannot tell in which place they placed the sash. You want to know where they bought the sash?

XQ132. Yes. A. I don't know in which place they bought it.

XQ133. Was this job where these agreements were made, the Friedlander job? A. I could not say who that was. I done the job directly myself. I done it direct for the owner, Weinstein.

2090

XQ134. Weinstein was the man that you had the contract with? Was he a sub-contractor on the work? A. No, he is the owner.

XQ135. And you did not get paid for the work? A. No. He paid all for the other, but did not pay for the last $2,500. There were two contracts there.

XQ136. Was it Weinstein that said you would have to make some agreement with the union or he could not use your material? A. Of course, I did not speak to him, but my representative.

2091

XQ137. He told you? A. He told me that something had got to be done, that he could not hold me responsible except he made that compromise, that I should not buy any more from non-union sash.

XQ138. Weinstein told you that? A. He told my agent I got to make some compromise.

XQ139. You would have to make some compromise in your claim? A. No, not compromise, but that they cannot use it.

XQ140. And he already had the material there? A. Yes, he already had the material there.

XQ141. What was the amount? A. I could not tell. There was some glass with it, you know, some inside glass.

XQ142. What was your impression, Mr. Werbelovsky? Did you get the impression that Weinstein was really trying to cut down your bill because he had this trouble with the union men? A. No, that time he paid.

XQ143. But he did not pay it until he had had
2093 a lot of trouble with you? A. Sure.

XQ144. And the next time he did not pay the bill at all? A. No, not at all.

By Mr. Mayer—

XQ145. Mr. Werbelovsky, you have answered the one question that I put to you before? That your idea is, that you could make more profit by buying material from non-union mills than from union? A. Yes, sir.

XQ146. And you also state that it cost about twice as much? A. Yes, sir.

2094 XQ147. You also, as a business man of thirty-seven years' experience, know that union shops pay a good deal more wages to their men, don't you? A. Yes.

XQ148. And you also know as a business man of thirty-seven years' experience that they do business with their employees on a different basis?

Mr. Merritt: I move that these two questions and answers be stricken out, because this witness cannot possibly be qualified, as it does not

2095

appear he has ever had any connection or experience with the operation of factories.

A. Yes, sir.

XQ149. You have mentioned among others, the Empire City-Girard Company, which is a union concern? A. Yes.

XQ150. And they employ union men and pay the highest rate of wages?

Mr. Merritt: Same objection.

A. Union wages.

2096

XQ151. And eight hours' work? A. Yes.

XQ152. Which you know is not paid, and that the hours of work are not the same, in the non-union shops?

Mr. Merritt: Same objection. It is very clear that this witness cannot know what conditions prevail in non-union factories in the Bronx.

A. Yes.

XQ153. You have kept in touch with the conditions in the United States in your business? A. As much as I could.

2097

XQ154. And you know generally the conditions that exist in union and non-union mills? A. Yes.

XQ155. And you know also, or have heard it said, that women and children are employed in the non-union mills?

Mr. Merritt: Same objection.

A. I did not see it.

XQ156. You have heard about it? A. I have heard about it.

2098 J. H. Werbelovsky for Complainant—Cross.

Mr. Merritt: Same objection, and also on the further ground, calling on a witness to testify as to what he has heard.

By Mr. Beattie—

XQ157. Do you run a union shop yourself? A. No, sir.

XQ158. When did you tell Mr. Merritt about this contract you had signed? A. I told him when he came up to my office.

XQ159. How did he find out that you had made
2099 that contract? A. I don't know. I got a subpœna to bring all the evidence along, whatever paper I got, that is all that it is.

XQ160. How did he find out that you had a paper ? A. I don't know how he found it out, I don't know.

XQ161. Didn't you write to him telling him you had such a paper? A. No, I did not write him anything at all.

XQ162. Did you write to the American Anti-Boycott Association? A. No, sir; I did not write anything at all.

XQ163. Didn't you send anybody there? A. I
2100 had no transaction at all, except I got $2 to be a witness here by the Supreme Court here.

XQ164. And you got the $2? A. Yes, sir.

XQ165. Have you got the subpœna with you? A. Yes, sir (produces subpœna).

By Mr. Beattie—

XQ166. Are you a member of the American Anti-Boycott Association? A. No, sir.

XQ167. Would you like to be a member? A. I don't like to be a member of anything.

2101

Re-direct examination by Mr. Merritt—

RDQ168. Do you mean to testify that there are more non-union manufacturers of sash in the City of New York than there are union manufacturers? A. Non-union?

RDQ169. Yes? A. I can't tell exactly, I don't know, I think it is more non-union.

RDQ170. You think there are more non-union manufacturers of sash in the City of New York? A. Yes, sir.

RDQ171. Than there are union? A. Yes, I think, I could not tell; they have been pressed lately to become union, they were compelled.

2102

Mr. Mayer: I object.

RDQ172. Do you mean to-day? A. Yes, I guess it would be more union to-day.

RDQ173. Do you know? A. I don't know, I say; I don't know.

RDQ174. Have you any idea how many manufacturers there are in New York? A. No, I could not say.

RDQ175. Are there 300? A. No.

RDQ176. There are not? A. No.

2103

RDQ177. Are there 200? A. No, I could not tell you, no, I don't think there are so many.

RDQ178. Are there more than 50? A. Fifty? I could not say.

RDQ179. You don't know how many there are? A. No, I don't know how many there are exactly.

RDQ180. And you don't know, then, whether there are more union or non-union? A. No, because I don't go outside at all, except the man that is doing the business for me.

2104 RDQ181. Now the concerns you named, Bossert, Newton, Mayer, Cross, Austin & Ireland, as non-union concerns, are all in Brooklyn, are they not? A. Yes, sir.

RDQ182. And you are unable to name a single non-union concern in New York? A. Not in New York, I don't know anything about Manhattan.

RDQ183. Manhattan? A. I don't know anything about it. But I know from the time I was around there looking for business.

RDQ184. How long ago was that? A. About
2105 twenty years.

RDQ185. You have not been around here to any of the factories in the last two or three years? A. Some of them.

RDQ186. In Manhattan? A. Not in Manhattan at all, but in Brooklyn.

RDQ187. So you don't know anything about conditions in Manhattan as to non-union manufacturers to-day? A. No.

RDQ188. How long since you have been in any non-union factories? A. How long? I was there about two or three weeks ago.

RDQ189. Which one? A. Louis Bossert.

2106 RDQ190. What others? A. Well, not any others.

RDQ191. How many non-union factories have you been inside of in the last two years?

Mr. Maloney: Objected to, immaterial.

Mr. Mayer: And as to his cross-examining his own witness.

Mr. Merritt: I am examining him as to matters introduced for the first time by defendants' counsel.

A. About two, two or three, that's all.

RDQ192. Are you acquainted with the conditions which prevail in all of the non-union factories? A. Well, I am acquainted with them, yes.

RDQ193. Not of your own knowledge, are you?

Mr. Mayer: I object to that; he is trying to cross-examine his own witness.

A. Yes.

RDQ194. Of your own knowledge? A. Yes, I know the conditions.

RDQ195. How do you know them? A. I know they have got to do a lot of more work and they get not so few hours and don't get so much pay.

RDQ196. How do you know that? A. Because I know that. I was talking to Louis Bossert, that he cannot control his men better with non-union than union.

RDQ197. Is it only in conversation with Louis Bossert that you know it? A. Yes.

RDQ198. That is the only one you know it of? A. Yes.

RDQ199. That is the only one? A. Yes. He is the biggest one, because I know the——

RDQ200. How do you know about the conditions that prevail in the factories in San Francisco? A. I don't know anything about it.

RDQ201. Or down in Tennessee? A. I don't know anything about it, outside what I know; I can't say any statement of what I did not see.

RDQ202. You gave testimony as to the conditions being always better in union factories. Do you know that that is true in regard to non-union factories in other parts of the country, or do you just

presume it to be true? A. I cannot understand what you mean.

RDQ203. You testified that the conditions in union factories were shorter hours and higher pay, etc.? A. Yes.

RDQ204. Do you know what the conditions are in non-union factories in other parts of the country? A. Other parts of the country I don't know, I only know here.

Re-cross-examination by Mr. Beattie—

2111

RXQ205. Have you ever bought any sash from the Paine Lumber Company, Ltd.? A. Yes.

RXQ206. When did you buy that? A. I could not say when but I bought it. You ask me if I dealt with them—I did, but I don't know when. There are some other firms come in.

RXQ207. Within the last two or three years have you bought from them? A. I think so, but I am not sure about it.

RXQ208. Have you bought anything from the Gould Manufacturing Company? A. I tell you, that I signed some check, but I would not swear to
2112 such a thing. I am not positive.

RXQ209. Have you bought anything from the R. McMillen Company, the Morgan Company, the Lotham Cypress Company, Curtis & Yale, W. D. Crooks & Son, and Bristol Door & Lumber Company that you can recall? A. I don't know, I can't recall with each one I dealt. They ask estimates through our factory, from which is the cheaper to buy it, and I cannot tell exactly from which factory we bought.

RXQ210. Where do you buy your 1⅜" now? A.

We buy it of everyone now. One is cutting the other one's throat and each one is making it cheaper. I can give you information if I go up to the office.

RXQ211. And there is no trouble about hanging this 1⅜"? A. No, no trouble, no.

By Mr. Merritt—

RDQ212. What do you mean by "cutting each other's throats"? A. When there is too much competition, you know, the other one makes it cheaper than the other. The same as glass. Glass is now down, because they broke the trust and the government compelled them to dissolve and now it is half the price.

Mr. Merritt: I move that the last answer in regard to glass be stricken out as incompetent, irrelevant and immaterial.

By Mr. Beattie—

RXQ213. Did you understand that the trust in sash has also been broken up?

Mr. Merritt: I object, incompetent, irrelevant and immaterial, and also as not cross-examination.

A. That I could not say. There is no trust, I don't think so, but I would not say positively, I don't think there is a trust. If you can buy from one cheaper than the other, there is no trust.

RXQ214. Well, that has not always been so, has it? A. No, always one price before.

RXQ215. And when did the prices begin to break up in sash?

Mr. Merritt: Same objection.

A. I suppose when the business comes down too low, slow business.

RXQ216. The price of sash was about the same in all these big mills until about when? A. I could not say up to when.

Mr. Merritt: Same objection.

RXQ217. When did you notice that the prices of sash—— A. I seen it this year. My sons
2117 showed me quotations, they told me, and I would not lay in any sash in stock. He presented me the prices and I would make up my mind to buy a couple or ten thousand pair of sash, and it is so very low. That is no trust.

RDQ218. Well, before that, weren't the prices uniform? A. No, before I guess it was a more uniform price-list.

RXQ219. Before the present year? A. Yes.

By Mr. Maloney—

RXQ220. Before the government attacked this
2118 lumber trust or sash trust? A. Yes.

By Mr. Merritt—

RDQ221. Do you mean to testify that a year ago all of the prices in regard to sash were uniform? A. Not exactly uniform. But about, near; but you always can buy a little cheaper, inside price, a shrewd buyer.

RDQ222. And you called for estimates from different concerns? A. I suppose we did, yes; they had a representative here to my office.

George Hatzfeld for Complainant—Direct. 2119

RDQ223. And you usually took the cheapest price? A. Took the cheapest price, yes.

It is consented that copies of Exhibits 20, 20-A and 20-B may be attached with the same force and effect as the originals.

Subscribed and sworn to before me)
this day of , 1911.)

12.45 P. M.—Adjourned for luncheon.

Hearing resumed—2 P. M. 2120

GEORGE HATZFELD, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. George Hatzfeld.

Q2. And your age? A. Forty.

Q3. And what is your business? A. Manager of the woodworking department.

Q4. For the Cross, Austin & Ireland Lumber Company? A. Yes.? 2121

Q5. And that is a company engaged in the manufacture of doors, sash, trim, etc., isn't it? A. Yes.

Q6. Situated in Brooklyn? A. Situated in Brooklyn.

Q7. How long have you been employed by them in that capacity? A. About seventeen years, that is, I have not been the manager of the department for about 17 years, but for 14 years.

Q8. That concern runs what is known as an open shop, does it not ? A. Yes, sir.

2122

Q9. In the course of its business, does the company purchase doors and other kinds of wood materials from other manufacturers? A. Some of them.

Q10. And you have charge of that matter of purchasing? A. Yes.

Q11. Have you brought with you certain figures showing the business you have done in certain past years with the R. McMillen Company? A. I have; yes, sir.

Q12. Will you give us those? A. (Witness pro-

2123 duces figures.)

Q13. Do these figures on this paper which you have handed me, represent the amount of business done with the R. McMillen Company on the respective dates there given? A. Yes, sir.

Q14. About how much of that business would be in 1⅜" sash, approximately? A. About 5% of it.

Q15. Is most of it in doors? A. Most of the business, you mean?

Q16. Yes? A. Yes.

Mr. Merritt: I will ask to have these figures written into the record.

2124

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Maloney: And in no way binding on these defendants, and we move to strike out the testimony of the witness in that respect also as incompetent, irrelevant and immaterial, and also all the evidence given by this witness, as incompetent, irrelevant and immaterial and hearsay, in no way binding on these defendants or relating to the issues.

Statement reads as follows:

George Hatzfeld for Complainant—Direct. 2125

"STATEMENT.

Brooklyn, N. Y., Dec. 13, 1911.

The R. McMillen Co.,
Oshkosh,
Wis.

In account with
CROSS, AUSTIN & IRELAND LUMBER CO.
1246 Grand Street

1907					
Sept.	25	Mdse. per invoice	#4796	$1,504.17	
Dec.	31	"	5560	155.	2126
1908					
Apr.	8	"	5952	417.33	
May	16	"		7.	
July	1	"	6372	806.36	
Aug.	6	"	6664	433.95	
Oct.	20	"	7155	296.73	
	20	"	7343	83.48	
Dec.	10	"	7821	567.57	
	11	"	7601	570.	
1909					
Feb.	10	"	8509	575.	
Mar.	19	"	8949	220.39	
Apr.	26	"	9319	1,852.03	2127
May	26	"	9459	355.94	
June	11	"	9579	3,079.69	
July	10	"	9802	206.89	
Aug.	7	"	322	1,554.45	
Sept.	30	"	689	3,000.	
Oct.	20	"	1009	1,790.46	
Nov.	15	"	1127	2.	
Dec.	31	"	2313	416.60	
1910					
Apr.	13	"	2858	426.	

2128 George Hatzfeld for Complainatn—Cross.

	26	"	3089	93.15
Aug.	1	"	4504	4,583.42
Nov.	19	"	6961	1,571.91
	25	"	6811	647.71
1911				
Jan.	5	"	6810	920.30
June	8	"	247	971.80
July	1	"	1297	1,306.68
		"	729	264.92
	31	"	1298	251.65
Aug.	15	"	1299	2,334.35
2129	25	"	1300	77.26
Sept.	13	"	1301	1,802.46
Dec.	1	"	1885	453.98
				$33,600.63"

Cross-examination by Mr. Beattie—

XQ17. Have you got the figures showing Cross, Austin & Ireland's general business for the last four years? A. I don't understand your question.

XQ18. Have you got the figures showing Cross, Austin & Ireland's general business for the last four years? A. No Sir, I have not.

2130 XQ19. Covering the period of the statement that you have submitted. A. No, sir.

XQ20. Why did you bring a statement of this one branch of the business. A. Because that is the only concern with whom we do business that was mentioned among a lot of others in this case.

XQ21. You have never done any business with the Paine Lumber Company. A. No, sir.

XQ22. Has your business in 1⅜" sash increased during the last year or two? A. No sir.

XQ23. With McMillen & Co? A. No sir.

XQ24. Has the business in 1⅜" decreased during the last year? A. No.

XQ25. It has not decreased? A. No, it is about even for the past four years.

XQ26. It has stayed the same? A. Just about the same.

XQ27. And what was it four years ago? A. I dont' know for a certainty.

XQ28. Can't you approximate it? A. I suppose about 5%.

XQ29. That is all 1⅜"? A. Our sash, yes; our sash business is about 5% of our total volume of business with R. McMillen & Co.

XQ30. Well, how about the total volume of business? A. Oh, I don't know that.

XQ31. You don't know what proportion it is? A. No sir.

XQ32. Don't you make sash yourself? A. Yes.

XQ33. Haven't you been making more sash in the last year or two than you used to make? A. No, I can't say that we have.

XQ34. Well, you could do it, couldn't you? You have got the capacity to do it? A. To make more sash than we do?

XQ35. Yes. A. Yes.

XQ36. Don't you know what proportion of your whole business sash is? A. Well, only in a general way, I should say about 5% of our total business would be sash, and that would not be 1⅜" necessarily, but it would be all sash.

XQ37. Well, what proportion of that would be 1⅜" sash. A. I could not say that.

XQ38. Do you know what you submitted this statement here for? What object you had in doing it? A. Just to show the volume of business done

2134 with the R. McMillen Company in the past four or four and a half years.

XQ39. Did you notice that during the month of August last that you have done more business with them than you did any other month for the prior year? A. I did not notice that, no.

XQ40. Well, you just notice it now. See if that is not so? (Witness examines statement)—that you did more business with them during the month of August last than you did with them for any other month for the whole prior year. A. That
2135 seems to be so, yes sir.

XQ41. Hasn't there been some depression in building trade around this city the last year or so? A. Yes, there has been.

XQ42. And I suppose you felt that depression in your business to some extent? A. We did.

XQ43. And yet your business since January 1 has been larger than any of the three prior years, hasn't it, according to this statement, with McMillen & Company? A. Well, I can't say that for a certainty.

XQ44. Well, your business during the year 1911
2136 has certainly been much larger with McMillen & Company, according to this statement, than during the years 1907-8-9. You can see that in a moment, can't you? A. I can't say for certainty without comparing it, definitely.

XQ45. You can very plainly see it was much larger for the years 1907-8, can't you, without any calculation? A. There is only part of 1907 given, 1907 from September on.

XQ46. Well, how about 1908? A. Our business seems to have been smallest during the year 1908.

XQ47. It was much smaller in 1908 than it was in 1911? A. Yes sir.

XQ48. Didn't you do more business—just look at these figures—for the month of August, 1911, with the McMillen Company, than you did for the whole of the year 1908 with that company? A. Well, there appears to be a little more business during the year 1908 than in the month of August, 1911.

XQ49. Well, it is only a matter of $200 or $300? A. Only a slight difference.

XQ50. Not over $200 or $300? A. Well, approx- 2138
imately.

XQ51. How many help do you employ in your concern? A. About 100 men.

XQ51. One hundred now? A. Yes. I am talking about my department.

XQ53. And what is your department? A. Woodworking department.

XQ54. These are carpenters—100 carpenters? A. Carpenters, machine hands, laborers.

XQ55. How many carpenters have you got? A. About 50.

XQ56. How many hours a day do you work your mill? A. Ten hours. 2139

XQ57. And do you supply any woodwork for the municipal buildings of this city?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial and not part of the cross-examination.

A. We do not.

XQ58. Have you ever done it?

Mr. Merritt: Same objection.

2140 George Hatzfeld for Complainatn—Cross.

XQ59. Have you ever done it since the labor law of 1907? A. You mean school buildings, and work of that kind?

XQ60. Any kind of public buildings, city or municipal?

Mr. Merritt: Same objection.

A. Yes, we have.

XQ61. And was this material that you made for these public buildings made by men who work ten hours a days?

2141

Mr. Merritt: Same objection.

A. Yes sir.

XQ62. Are you fiurnishing mill products for any public buildings now?

Mr. Merritt: Same objection.

A. Yes, public schools.

XQ63. You are furnishing for public schools? A. Yes.

XQ64. What public schools are you furnishing work for?

2142

Mr. Merritt: Same objection.

A. One public school in Flushing—and another in Glen Morris, public school 46.

XQ65. And are you furnishing all the interior wood work, including doors and sash, for these public buildings?

Mr. Merritt: Same objection.

A. Yes sir.

XQ66. And the men doing that work are all working ten hours a day in your shop? 2143

Mr. Merritt: Same objection.

A. Yes sir, in our shop.

XQ67. Do you know that the labor law of 1897, that the amendment provides that all public work shall be done at eight hours per day?

Mr. Merritt: Same objection.

A. I do not.

XQ68. Have you made arrangements to bring an action against this Carpenters' Union? 2144

Mr. Merritt: Same objection.

A. I don't know.

XQ69. You have not done that? A. I don't know.

XQ70. Don't you know that such an action is in contemplation?

Mr. Merritt: Same objection.

A. I do not.

XQ71. Are you testifying here to help out any such an action? 2145

Mr. Merritt: Same objection.

A. I don't know, sir.

XQ72. Is your concern a member of the Anti-Boycott Association?

A. I don't know.

XQ73. Who knows these things? A. I don't know.

2146

XQ74. You don't know who knows them? A. I do not.

XQ75. Do you pay out the moneys to the McMillen Company for the different material that is mentioned in this statement? A. No sir.

Mr. Mayer: I move to strike out all the testimony of this witness in any way bearing upon this statement which is to be written into the record as to the amount of business done with R. McMillen Company, on the ground that it is not the best evidence, that the witness has not shown his familiarity with the figures sufficiently to testify, and that they are not the original records, incompetent, irrelevant and immaterial and hearsay.

2147

Mr. Beattie: Same motion.

By Mr. Maloney—

XQ76. What did you say your position was? A. Manager of the woodworking department.

XQ77. You don't know anything about the business that McMillen do with Cross, Austin & Ireland except as you receive it from the bookkeeper?

2148

A. That is all, yes sir.

XQ78. You merely brought along a statement prepared by the bookkeeper? A. Yes sir.

Mr. Mayer: No questions.

Re-direct examination by Mr. Merritt—

RDQ79. You have charge of the wookworking department? A. Yes sir.

RDQ80. Do you place the orders? A. Yes sir.

RDQ81. Are you prepared to testify that those

items in each and every instance represent the orders which you placed? A. Yes sir.

RDQ81a. Do you know that of your own knowledge? A. Yes sir.

By Mr. Beattie—

RXQ82. How long have you been in charge of the wookworking department? A. About 14 years.

Mr. Maloney—

2150

RXQ83. What wages do you receive? A. $4000 a year.

RXQ84. You are not in general management of the business, are you? A. Only of the woodworking department.

RXQ85. What other departments are there? A. The lumber department.

RXQ86. There is one other department called the lumber department? A. Yes sir.

By Mr. Mayer—

2151

RDQ87. Are there only just two departments? A. There might be a planing department.

Mr. Maloney—

RXQ88. Your duties are principally the supervision and management of the mechanical part, just the manufacture and construction of the woodwork? A. The general manager, yes sir.

RXQ89. You don't have anything to do with the financial end of the business? A. No, sir. In this way: I do the estimating for the sale of goods.

2152

RXQ90. You mean, you give out estimates as to what the goods can be sold at? A. Yes, sir.

RXQ91. But otherwise you have nothing to do with it? A. No sir.

RXQ92. That is done by some member of the firm? A. Yes sir.

RXQ93. Do you know any reason why a member of the firm was not produced here as a witness in these matters? A. I do not.

RXQ94. Who requested you to come here? A. Mr. Davis, of our concern.

2153 RXQ95. Is he a member of the concern? A. He is the president.

Mr. Merritt: It is a corporation.

RXQ96. Mr. Davis is the president of the company? A. Yes sir.

RXQ97. Who are Cross, Austin & Ireland? Are they still identified with the company? A. Only Mr. Ireland.

RXQ98. The other men are deceased, or out of the business? A. Deceased.

RXQ99. Originally, it was a copartnership,
2154 Cross, Austin & Ireland? A. Yes sir.

RXQ100. And you don't know what the object of your testimony here was? A. I do not.

Subscribed and sworn to before me this day of , 1912.

John S. Henry for Complainant—Direct. 2155

JOHN S. HENRY, a witness called on behalf of the complainant, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. John S. Henry.

Q2. And your age? A. Sixty-four.

Q3. You were formerly Secretary of the General Arbitration Board of the Joint Arbitration Plan of the Building Trades Association in the City of New York, were you not? A. Yes sir.

Q4. And during what period did you hold that position? A. June 13, 1909, to May 1, 1910. 2156

Q5. In whose employ were you in that capacity? A. The General Arbitration Board.

Q6. And what was the General Arbitration Board; who was represented in it? A. Employers and employees.

Q7. Employers in different branches of the building trades and employees of union trades in different branches of the building trades? A. Yes, sir.

Q8. And you were in the employ of all of them jointly? A. Yes sir.

Q9. Did you represent one side any more than you did the other? A. No sir. 2157

Q10. Who paid your salary? A. The General Arbitration Board.

Q11. And where did the funds come from? A. From them; from the arbitration fund.

Q12. Where did that come from, do you know?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

A. It came from both sides; employers and employees.

Q13. Funds subscribed by the various employers and union parties to that plan? A. Voluntary subscription, yes.

Q14. The Masters Carpenters Association was a party to that plan, was it not? A. Yes.

Q15. And the Manufacturing Woodworkers' Association, was that a party also? A. Yes, I believe that was.

Q16. And was the Joint District Council of the United Brotherhood of Carpenters a party? A. No sir.

2159 Q17. It had no connection with the plan? A. No, sir, the carpenters——————the Brotherhood of Carpenters, the way they were listed, the Brotherhood of Carpenters.

Q18. The Brotherhood of Carpenters was a party to the plan? A. Yes sir.

Q19. What was the title, United Brotherhood of Carpenters and Joiners? A. Some of the books here will show, I am not positive now.

Q20. Just look them in and see? A. Brotherhood of Carpenters, that is the way it was.

Q21. How were you chosen Secretary? A. I was chosen, I was elected by the General Arbitra-
2160 tion Board.

Q22. That included representatives from the employers and the employees? A. Yes sir.

Q23. Now, as Secretary of the General Arbitration Plan, you also took the minutes of the Executive Committee of the Arbitration Board, did you not? A. No sir.

Q24. Did you keep the minutes? A. I recorded the decisions.

Q25. Well, how were the minutes kept? A. As you find them, in the book.

2161

Q26. Did you have anything to do with keeping them? A. No, not any more than to record the motions that were passed; that is all. We had a stenographer.

Q27. Well, now, referring to the Comp. Exhibits 13, 14 and 15, I will ask you if you recognize those as the minutes of the Executive Committee of the General Arbitration Board?

Mr. Beattie: I object to the question because there are no such exhibits in this case.

2162

A. Yes sir.

Q28. Referring first to the one marked "Exhibit 13," I ask you if that contains the minutes of the Executive Committee from January 5, 1909, to March 29, 1909?

Mr. Beattie: I object to that because the witness says he did not keep the minutes and he cannot know.

A. It does.

Q29. Now, referring to the one marked "Exhibit 14" I ask you if that contains the minutes of the Executive Committee of the General Arbitration Board from April 7, 1909, to July 28, 1909?

2163

Mr. Beattie: I object to that because there is no such exhibit.

A. Yes.

Q30. Referring to Exhibit 15 for identification, I will ask you if that contains the minutes of the Executive Committee of the General Arbitration Board from August 2, 1909 to December 22, 1909, and several meetings in 1910?

Mr. Beattie: I object because it has been shown that the witness has not kept the minutes and does not know.

A. Yes.

Q31. Did you have custody of these minutes when the plan was in operation? Yes sir.

Q32. After the plan terminated, what did you do with them? A. They were taken to the Building Trades Employers' Association. I ceased to have anything to do with them.

2165 Q33. Were they handed over to the Secretary of the Building Trades Employers' Association? A. Yes sir.

Q34. That is, Mr. Holmes? A. Yes sir.

Q35. Were you present at each and every one of the meetings represented in those Exhibits 13, 14 and 15 for identification? A. Yes sir.

Q36. You stated that the minutes of these various meetings were taken by the stenographer? A. Yes, sir.

Q37. That stenographer was employed by the Arbitration Board? A. The same as I am.

Q38. And when did they come into your posses-
2166 sion after being taken? After each meeting? A. Possibly two days, three days.

Q39. Always within two or three days? A. Well sometimes upon close to a week, I think. We would not get them until close to a week.

Q40. Did you always read the minutes over after they came to you? A. Yes sir.

Q41. And did you see that they were correct, according to the best of your knowledge at that time? A. To the best of my knowledge, yes.

Q42. To the best of your knowledge, these min-

utes correctly represented the business that was transacted at those meetings? A. Yes sir.

Q43. Who was the stenographer? A. A lady, Mrs. Power.

Q44. Where is she now? A. I could not tell you.

Q45. Now, in each and every meeting represented by these minutes, you were present? A. Yes.

Q46. And you saw and heard what was done? A. Yes.

Q47. And you recognize those minutes as the minutes transcribed by the stenographer and put into your possession within several days after the 2168
meeting took place? A. Yes sir.

Q48. And they were checked off by you to the best of your ability at that time? A. Yes sir.

Q49. It was part of your duty to see that they were correct, wasn't it? A. Yes sir.

Q50. And they were taken down in the ordinary course of the business and affairs of the Executive Committee? A. Yes sir.

Q51. And you recognize these books as containing the minutes which were so kept? A. Yes sir.

Q52. And they are correct to the best of your knowledge and belief. A. To the best of my knowledge and belief. 2169

Q53. Did you make up these books and enter them in that way? A. Yes sir; I and the day stenographer.

Q54. That is, you placed them in the books? A. Yes, I placed them in the books. We had a day stenographer. She placed them in the book.

Q55. Another one from the one who took them? A. Yes.

Q56. Who was she? A. Miss Glen.

2170

Q57. Did she place them in the book before or after you saw them? A. After.

Q58. And after you saw them and passed them you handed them over to her to put in the book? A. Yes sir.

Q59. Did the different parties to the plan have access to the minutes to examine them if they cared to? A. Yes sir.

Q60. Did you ever hear anyone criticise the accuracy of the minutes? A. No sir. Oh, there might have been two or three times, I think.

2171

Q61. To whom was the money paid that was subscribed by the members of the plan? A. To me.

Q62. Did the United Brotherhood of Carpenters pay money to you? A. They paid some.

Q63. Do you know who served on the Arbitration Committee? A. There were changes at different times.

Q64. Can you tell who served at any one time by these minutes? A. Yes sir.

Q65. The people who appear there, are they the people who served? A. Yes.

2172

Mr. Merritt: I will offer these books in evidence ac Complainants' Exhibits 13, 14 and 15.

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial; too remote and not properly proven, and because the arbitration plan became inoperative in January, 1910, and the Executive Board then went out of existence.

Mr. Whittaker: Same objection.

Mr. Mayer: Same objection.

Q66. Now, on Page 163 appears a part of the

minutes for February, 1909, and I will ask you what the entries mean at the beginning, saying:

"Appearances: Duffy & Collins
Mr. Crimmins for the J. Dist. Council."

Mr. Maloney: I object to the question on the ground that whatever the entry may be, if admissible at all, it speaks for itself. Crimmins did go there as a witness.

Q67. For the Joint District Council? A. Yes, so it says there. 2174

Q68. That does not mean that Mr. Crimmins was on the Committee, does it? A. Oh no.

Mr. Merritt: I will ask to have copied into the record the minutes beginning with Duffy and Collins at Page 164 and continuing on Page 164, to

"The motion was seconded and carried."
"(Meeting February 10, 1909.)"
Duffy & Collin vs. Carpenters Joint Dist. Council.

Appearances: Duffy & Collins. 2175
Mr. Crimmins for the J. Dist. Council.
Complaint was read; also another complaint dated Feb. 8th.

Mr. Collins—

I have nothing to add to that; they called my men out.

Mr. Crimmins—

I don't know that this Committee has any-

2176

thing to do with this case, as Duffy & Collins was not a member here until last Saturday.

Mr. Harding—

He was a member of the Plan on Jan. 12th, as he was then elected to membership in our Association.

Chairman—

But we have received notice that he didn't quality until Feb. 6th. Is there any reason

2177

why the men should not be ordered back to work?

Mr. Crimmins—

I didn't order a strike in that shop. There has been a strike there since Oct. 1st last. I went there the other morning and found 2 or 3 of our men there and I chased them off the job; he was an independent employer.

Mr. Collins—

On Oct. 1st the delegate did come and took out 3 men, but we were going to lay them off

2178

that night, as we had nothing to do. Since that time I have had a certain amount of work and employed men right along until last Saturday when they were taken out; they were Union men.

In September I did the German Theatre and they claimed that some of the material was non-union, but they put up all the material that was supplied, and the job was finished on Sept. 30th and turned over to the owners, and next day they took the 3 men out of the shop.

2179

Mr. Crimmins—

At the proper time, when this case comes before this Committee as a violation of the Plan, we will be ready to argue it. At present we plead guilty, as the man was not a member when the action took place.

Motion: That the Carpenters be directed to return the men to the shop of Duffy & Collins. Motion was seconded and carried."

Q69. Where would I find the names of the men who were on the Committee at that time? A. It must be there in the book.

2180

Q70. Do you know whether that Mr. Crimmins was Mr. Joseph Crimmins of the Carpenters' Union? A. Well, I could not say fully now. Of course, I know his name is Crimmins, but whether Joe or John I could not swear to it.

Q71. And he appeared at other times for the Carpenters? A. Yes.

Q72. I asked you before in the Irving & Casson case whether this Mr. Crimmins was Mr. Joseph Crimmins of the Joint District Council, and you answered he was.

2181

A. I think so, but I have just said that I could not say whether his name was Joseph; I know Mr. Crimmins.

Q73. You are not sure of his first name? A. No.

Mr. Maloney: I would like to have it noted on the record that these books being referred to from time to time are voluminous typewritten records and typewritten sheets of paper put in canvas covers unsigned.

Mr. Mayer: Of a defunct Board.

2182 John S. Henry for Complainant—Direct.

Q74. Now, I ask you to look at the minutes on Page 177, which are part of the minutes of February 17, 1909, and ask you if Mr. Storey appeared for the Carpenters' Joint District Council at that meeting? A. Yes sir.

Q75. And can you state whether or not that was Mr. L. E. Storey? A. I think it was.

Mr. Merritt: I ask to have the extract from the minutes of February 17, 1909, beginning on Page 177 with the words "Cohen & Steinick" down to the end of Page 179, written into the record.

2183

"Cohen & Steinick vs. Carpenters on job north side 101st St., between 3rd &Lexington Aves.

Appearances: Cohen & Steinick (Mr. Steinick) Mr. Storey for the Carpenters J. D. C.

A communication from Cohen & Steinick was read.

Mr. Steinick: I have nothing to add to that.

Mr. Storey—

2184 Somewhere about six months ago I discovered this building in course of erection and found that the owner was the Benson Realty Co., represented by Mr. Jackson. I saw him in reference to the trim and he informed me that it would be handled by strictly union shops, that the contract would go to either the Empire, or a firm in Brooklyn, Gerard. I told him that those firms were satisfactory to our organization, and I went away believing he would go along those lines.

2185

Later I was informed that Mr. Steinick told him not to bother about the trim question, to give him the trim and the putting up of it and he would attend to that matter. That was done and a few weeks later I found that Cohen & Steinick had taken the contract for the trim and had got it from a man on the unfair list.

I came and took our men away and I also found that the kalamine on the job was non-union and did not bear the label; my opinion is that Steinick is a cloaker to cover the Benson Realty Co. I don't believe he has the contract for the trim at all but that he thought on the strength of his being a member here, he could handle the trim wherever he saw fit. I called him up on the 'phone two weeks ago, but had to call two or three times before I could get at him.

2186

Mr. Steinick—

No, last week was the first time, and you asked who was furnishing the trim and I said Rabbe Bros., and that the stuff would be there the next day and then we would start the men. Three months before you were told we had the contract. Why didn't you go after the non-union window frames? I consider Rabbe a union shop; he has made trim for union carpenters.

2187

Mr. Storey—

As soon as I found out they had the Carpenter work I was satisfied and had no objection

2188

until I found they had taken the trim. I don't believe yet that he has the trim. I believe it is a cloak for the Benson Realty Co. It is not true that I only told him about it a week ago; I rang up his home address and the first time could not get an answer, but the second time his daughter answered; it was three weeks ago when I first got him and told him he would be in trouble on the job, but he said he would go ahead, that the Plan of Arbitration would protect him.

2189

Mr. Kelly—

Did you know that Cohen & Stenick was a member of the Building Trades Employers' Association?

Mr. Storey—

Yes sir.

Mr. Kelley—

Then why did you remove the men?

Mr. Storey—

2190

I don't know any other way to bring the case here.

Mr. Kelly—

You know very well that before you remove any men, you must file a complaint against them. If that is the attitude of the Brotherhood of Carpenters, that they are going to strike against members of the Employers' Association, the sooner we know it the better.

2191

Mr. Neal—

We must assume some attitude pretty soon. This proposition has been tied up 2 years and it is time something was done, and the only way we can get things here is by the method Mr. Storey has adopted.

Mr. Harding—

This case is perfectly clear and there is only one thing for this Committee to do and that is to order the men to go back. Mr. Storey has no right to take the men out on strike without first bringing a complaint here.

2192

Mr. Crimmins—

I don't know whether Mr. Storey made a complaint or not. I don't blame him for doing as he has at all; I guess he was right. The Master Carpenters say that under no circumstances must we touch their members; it seems they have all the rights, and we none. Mr. Steinick says we violated the trade agreement; well, didn't he violate it in giving this trade to an unfair firm?

2193

That is the attitude of the Master Carpenters' Association all the way through; they can violate right along, but when our delegate makes a msitake, we are to be hauled up here and censured.

Mr. Storey—

I have been watching this job for 6 months. If a member of the Plan goes into a job that I have under control and am watching and up-

2194

sets me, what am I to do then, walk away? I claim that he has not got any contract, it is only a subterfuge.

Chairman—

As to the non-union kalamine, you could take your men off, or any men off who were doing kalamine work, but if you wanted Mr. Steinick's men off, you would have to make a complaint here first. Is Mr. Steinick doing this kalamine work?

2195

Mr. Storey—

Sure he is.

Mr. Harding—

If Mr. Storey had filed a complaint against Cohen & Steinick for using non-union kalamine, the Master Carpenters' Association would not be here to defend them.

Mr. Crimmins—

Will the Committee order Mr. Steinick to

2196

stop putting up that kalamine?

Chairman—

If you make a complaint against Cohen & Steinick for putting up non-union kalamine, the Committee will sustain it.

Mr. Storey—

I would not bother to take the time to put in a complaint on the trim work. There has been one case that has been brought to the at-

tention of the Executive Committee in reference to the trim where anything more was done than to say: "Yes, he is guilty," but that is all; nothing done; no fine; merely a decision that they are guilty. It is not fair to the Carpenters' Ass'n.

Chairman—

The trim question is not before this Committee and has not been before; it has been referred back to your trade board; it has not been before this Committee to determine up 2198
to the present time, and is not yet.

Mr. Harding—

I think it is in the hands of this Committee now.

Chairman—

Well, it has not been until to-night

Mr. Neal—

The meeting of the Master Carpenters and the District Council was on the formation of 2199
a trade agreement; the trim question has been up here a number of times.

Chairman—

We have decided several cases according to the custom of the trade, but any disputed point between your organizations has never been up to this Committee until tonight. The Committee has repeatedly sent back the matters in controversy to your trade board.

2200 John S. Henry for Complainant—Direct.

Motion: That the Joint District Council be directed to return their men to the work of Cohen & Steinick. Motion carried.

Motion: That the Secretary is directed to inform the Carpenters' Joint District Council that, if they file a complaint tonight against Cohen & Steinick, it will be heard to-morrow night at 5:30 P. M.

Motion carried."

Q76. I notice the name of Mr. Crimmins appears
2201 in these minutes of February 17, 1909. Is that the same Mr. Crimmins as appeared at the other meeting? A. Yes.

Q77. And I notice the name of Mr. Neal. Is that Mr. Elbridge Neal? A. Yes, I believe it is.

Q78. Was he one of the Arbitrators at that time? A. No sir.

Q79. Or on the Committee? A. No sir.

Q80. Was he an Arbitrator at any time? A. Not while I was there.

Q81. Or on the Committee? A. No sir.

Q82. And did he appear before the Executive Committee on more than one occasion? A. Yes.

2202 Q83. You stated that the Carpenters Joint District Council was not entered on the roll, but I notice these entries for the Carpenters Joint District Council? A. I suppose they came there that way. I had them Brotherhood of Carpenters on the roll, I am sure.

Q84. Who paid you the moneys which you received from the Brotherhood of Carpenters? Was it Mr. Featherston? A. No sir. I received a very little from the Brotherhood of Carpenters while I was there.

Q85. And you do not recall who paid you that little? A. I cannot recall; no.

Q86. As a rule, was any one who appeared before the meetings called upon to state for whom they appeared?

Mr. Beattie: I object; the records show.

A. The records show.

Q87. The entry was made according to the person for whom they appeared? A. Yes sir.

Mr. Merritt: I will ask to have copied into the record the extracts of the minutes of February 18, 1909, beginning at the last paragraph of Page 186, and copying all of Page 187. 2204

"(Meeting February 18, 1909.)

Present—Messrs. Tucker, Chambers, Nolan, Coleman and Schmid.

The Committee then considered a complaint of Wakeham & Miller against the Carpenters Joint District Council, in which the Carpenters were accused of calling a strike of their men in the employ of Wakeham & Miller on a job located at 133-135 West 31st St. 2205

Mr. Miller appeared for Wakeham & Miller. The Carpenters were not represented.

Mr. Miller stated that the men refused to handle the trim and left the job.

The Executive Committee adopted the following decision:

RESOLVED. That the Carpenters Joint District Council are directed to at once return

2206 John S. Henry for Complainant—Direct.

their men to work on the job referred to in the complaint.

The meeting adjourned."

Q88. Now, looking at Page 190, which is part of the minutes of February 24, 1909, I will ask you if the Mr. Storey entered there as appearing for the Joint District Council is the same Mr. Storey concerning whom you have already testified? A. It is.

Q89. Is Mr. O'Neill for the Manufacturing
2207 Woodworkers Mr. David W. O'Neill? A. I don't know his initials. As I said, the last time, I am not positive of his initials.

Q90. Is he the Mr. O'Neill connected with the Empire City-Gerard Company? A. I think so.

Mr. Merritt: I will ask you to have copied into the record the extract from the minutes of February 24, 1909, beginning on Page 190 with the words, "Carpenters vs. Cohen & Steinick," and continuing to Page 202, including the statement, "I would like to have the putting up of this trim stopped."

2208

"Carpenters vs. Cohen & Steinick.

Appearances:—

Mr. Storey for the District Council.

Mr. Steinick for the firm.

Mr. Harding for the Master Carpenters.

Mr. O'Neill for the Mfg. Woodworkers.

The Complaint was read:

2209

Mr. Harding—

I would suggest that the Complaint be transferred to the Master Carpenters' Ass'n. We have taken the stand all the way through that Cohen & Steinick are doing the same as other members of our Association; they are buying trim from anybody they see fit, and will continue to do so until this trim proposition is settled.

This Board rendered a decision not long ago, coupled with a decision, that it was for the purpose of leading up to a settlement of the trim question, and directed the Master Carpenters to act. The Master Carpenters took up the matter of an agreement, with the Brotherhood, but they failed to agree and notified this Committee that they could not agree and demanded arbitration on the disputed points.

2210

Cohen & Steinick are members of the Master Carpenters' Ass'n and until that proposition is settled by arbitration, we demand that this Committee give Cohen & Steinick the same consideration that they do any of the other members of the Association, and treat it as an association matter and not as an individual matter.

2211

Mr. Storey—

I strenuously object to that charge being changed one iota. I think we can prove to this Committee that Cohen & Steinick are merely a cloak, in this case, and have taken the trim from the owner after he had already contract-

2212 John S. Henry for Complainant—Direct.

ed with this non-union firm, or that they have made a deal in some form. It seems it is the intention of the Master Carpenters to let the man do this and violate the Plan.

Mr. Steinick—

Mr. O'Neill, who is here present, figured that job, and I can prove that I am getting more money than his figure was.

Mr. Storey—

2213 The substance of the complaint is this: I visited this job on 101st St. 5 or 6 months ago when it was first started, when the first tier of beams was going up; I could not see the agent, Mr. Jackson, at that time, but went back a second time and found the second tier of beams going up and saw Mr. Jackson and he said he hadn't given the trim out yet, but that it would go to the Empire or that firm in Brooklyn, Gerard. I told him either of them would be satisfactory to us. Several times I went there and he always told me the trim would be given to a union firm. Later on I

2214 asked who would erect it, and he said Cohen & Steinick and that the trim would be given out in a week or two. The next time I went there, I was told that the trim had been given to Cohen & Steinick also; it struck me as funny that he had told me it was going to be given to a union firm, and then all at once it was given to these people. I don't believe they had any intention of manufacturing this trim, until the owner thought he had found a way to get out of it, and that the Arbitration Plan would help.

2215

Chairman—

You take the ground that if the Benson Realty Co. had purchased the trim, you could withhold your men from them? If they were reality the owners of the trim, you would not have to man the job?

Mr. Storey—

We certainly would not, no sir.

Chairman—

2216

Have you any proof to show that Cohen & Steinick are not the contractors on the job?

Mr. Storey—

No, I have no proof, but it has never been customary that a man would be given the contract to erect the trim, and then later find that he would have the contract to supply it, too. The contract is generally given out to supply and erect, or else to erect only; we call these people lumpers.

Mr. Harding—

2217

Have you any proof that the labor was given out first?

Mr. Storey—

I only have this proof. That Mr. Jackson told me so, and also the superintendent on the job. I have their word, and that is all I get any place. He assured me on several occasions that I need not worry about that job, it would be all right, but when it came to the

2218

point, I found that Cohen & Steinick had stepped in and had given the trim to one of the worst non-union firms in the City; so, I thought the best way would be to take our men away, and then the thing would come up here in its true light.

Mr. Crimmins—

Will Cohen & Steinick produce their contracts? Our charge is that they haven't a contract at all for furnishing the trim. If they

2219

can produce their contracts, why let them do so. They certainly have a contract for putting up the work; that is their business; they are lumpers.

Mr. Harding—

In the absence of anything further than Mr. Crimmins' statement that they haven't a contract, suppose you ask Mr. Steinick if he had a contract first for the erection of the trim. I don't think you can call upon him to produce his contract on that job, on the unsupported statement that somebody told Mr.

2220

Crimmins that Cohen & Steinick had the contract for the labor only.

Mr. Storey—

If he wants to play fair, Mr. Steinick did not be ashamed to show his contract. We are not asking for anything unfair. We cannot get our information except from the superintendent, etc.

 2221

Mr. Harding—

When we make charges, we are generally in a position to prove them. I don't know whether this is a cloak or not; in fact, I don't care. I know they are doing just the same as any members of our Association and claim they have a perfect right to do it. If it is stated that they took this contract as a cloak to help the Benson Realty Co. out of a difficulty, that is a specific charge and it is up to the union to prove that it is so before we are called upon to prove that it isn't so. 2222

Mr. Crimmins—

I think there are good grounds for the stand we take we take. I would like to ask whether Cohen & Steinick ever furnished trim to a job before; I don't think so; they are lumpers, pure and simple. I believe it is up to them to show their contracts here—the date of the contract for erecting, and the date when they let the contract for trim to Rabbe. I think there is no doubt that the Plan has been violated. If they claim they have been so instructed by the Master Carpenters, that is another question. 2223

We claim that it is a violation of the Plan and that it is a subterfuge on their part.

Mr. Neal—

Inasmuch as Mr. Storey has stated that the action of Mr. Jackson was to the effect of delaying any action Mr. Storey might have taken on the beams that were going up, in order to bring

2224 about an adjustment of the trim question, it is ridiculous to ask for proof, when you would have to get the man's affidavit to the effect that he was trying to fool the delegate. That is the only way Mr. Storey could substantiate his statement. It strikes me, in the Board of Arbitration, when a situation of this kind arises, the word of the delegate who has heretofore made true and accurate statements to this Board, should be taken, especially where the only method of proving the proposition
2225 would be to get an affidavit from the man to the effect that he was trying to flim flam the delegate.

Chairman—

Does the Joint District Council deny the right of the Master Carpenters to set up trim that has been bought by some other owner?

Mr. Storey—

Where a non-union firm has made it.

2226 *Chairman—*

Assuming that the Benson Realty Co. did purchase this trim from Rabbe, do you deny the right of the Master Carpenters' Ass'n to set that up?

Mr. Crimmins—

Where the trade rules are violated by the Master Carpenters, we claim the right to withdraw our men.

 2227

Mr. Harding—

Did this Board ever render a decision on a case of this kind? I don't know that our Association has ever drawn the lines. I am under the impression that they have defended our member whether he had a contract for the labor alone, or for the labor and material. I am not positive of it, but I have an impression that has been the stand of our organization. In fact, I think one of the claims that was made before this Board, when I was asked 2228
by the Association to come here, was a somewhat parallel case. Charges were made against one of our members for handling material and I think I made the statement that, if I wanted to tbe technical in the matter, it was the Brotherhood who were violating, if there was a violation, as the were handling material.

Mr. Crimmins—

That seems a little mixed.

Mr. Harding— 2229

I say I don't want to be technical, or I could make that kind of a defense.

Mr. Storey—

The only proof I could give you would be an affidavit from Mr. Jackson and he would laugh at me, if I asked for it; but I am willing to make an affidavit myself that the statement I have made is true.

2230

Mr. Harding—

Suppose we produce a contract for the furnishing of the material and the erection and the contract for the purchase of the material from Rabbe, would the District Council be any more satisfied that the case would fall; would they not still claim it was a cloak? If we voluntarily produce these contracts, will that settle this proposition as far as this particular case goes? If that would satisfy them, we might consider it.

2231

Mr. Crimmins—

Let us see the contracts first.

Mr. Neal—

Even the production of the contract would not be satisfactory to the Brotherhood for the reason that the Master Carpenters have demanded of us that we take radical action against the independent employer, and have accused us of not doing it. This is a case here we did do it, and I have a list of a number of jobs where we did it.

2232

We know from long experience with Cohen & Steinick that they do not purchase their material and we know that they are not going to start in at this late date to do any different than heretofore.

Mr. Steinick—

As I said before, Mr. O'Neill can look up his books and see whether I have bought any material of him or not.

 2233

Mr. O'Neill—

There are two things I regret in connection with this case case. The first is that I am at all connected with it. Unfortunately the Benson Realty Co. did ask us for an estimate on the job; that I regret very much.

The other unfortunate thing is that I am here with my friends, the Carpenters, my enemies. As you all know there never has been any sympathy between the Brotherhood and my organization. I regret that very much, 2234
because there ought to be the closest affinity between us, but there is not.

I don't care much about this proposition before you to-night. The Brotherhood intimated their intentions—in my presence—of withholding their men from Cohen & Steinick, notwithstanding the order given by this Committee. By that time I had become quite interested in the proposition and I think, if there is anyone culpable for the Carpenters being at work to-day erecting that trim, I am the fellow. I showed them the fallacy of their position, to antagonize an order given by this 2235
Committee and advised them by all means to return the men to work to erect that trim.

I also advised the filing of this complaint here to-night, and you can readily see what these Carpenters are up against. Mr. Harding is absolutely right. It is up to them to prove these declarations, and you know they cannot do it.

I know that the Benson Realty Co. are the only parties who ever asked me for an esti-

mate on the work; I know that Cohen & Steinick never asked for the estimate. That is in your hands.

I will tell you what brought me here tonight. The Manufacturing Woodworkers, a part of the Building Trades Employers' Ass'n, just as much as the Carpenters are, have been watching with keen eyes the progress of events in connection with the manufacturing of wood trim and we have almost been led to believe, from the attitude of the Master Carpenters,
2237 that they were going to undertake to introduce into the Arbitration Plan an open shop proposition on the trim question.

If you, as a Committee, are going to sustain such acts as have taken place here in connection with this case and allow a speculative builder, or a loan man of the worst type, to go to work and send around to all of us manufacturers of trim who are paying the wages required under the agreement, and at the same time finding out the worst manufacturer of trim on the face of the globe, and then put our estimates alongside of his, and fool these car-
2238 penters the way he has done, up to the point where they conclude to give the order to Rabbe, and then turn around to a firm of carpenters whose business it is to erect trim only, and say to them: "The only way I can have this trim put up is by your taking over these estimates and placing the order for the trim where I tell you to and, if you do so, I will give you the order for the putting up of the trim, under those conditions." Now, if the Carpenters are going into that business, the

2239

Manufacturing Woodworkers have got to get rid of all unionizing of their shops, so they can go out and buy their stuff from such people as Rabbe and have it erected the same as this stuff is being done now.

Now, I hardly believe the Master Carpenters want that; there may be a few exceptions, but I don't believe outside of those men who are making it their business to do nothing but erect trim, that there are enough Carpenters to count on the fingers of one hand who would be found dead with any trim of Rabbe's in their possession; it is regarded by the trade universally as being the worst product ever made in the way of trim.

2240

If they want that, we will have to change all our conditions and they won't have any of us in the Arbitration Plan, but we will have to go into the open shop business and try and do as we did under the old system of gorilla warfare.

I can see the difficulties in the way of adjusting this trim question. I have lived with the question for 35 years. We came to the time about 7 years ago when everything was in a state of chaos in the building industry. You know the history of that time, and the fruits of that terrible fight was the organization of this Board. This organization was inaugurated with one object in view, viz.: to do business with unions. We found, under the adoption of this Plan that there were some trades, especially the iron trade which was distinctly an open shop condition, and provision was made for it.

2241

2242

Now the Master Carpenters want to interpret the arbitration Plan as meaning that all shops that were not unionized at that time are to be regarded as an open shop to-day—in the trim line, anyway.

A body of the manufacturers of trim were a part of the organization of this Plan; I think 18 firms took quite an active part in the deliberations and in the framing of the document under which we are operating here, and we have been conducting our affairs, so far as our

2243

Association is concerned, along those lines.

I don't think I need to tell the Executive Committee, if you take the sheet metal trade, for instance, that you are going to find that only the shops that were unionized in April, 1903, aer to be recognized as union shops, because they have been unionizing sheet metal shops ever since, and the same with the steam fitters. And so you can go along down the line until you come to the trim.

Now, are the Executive Committee going to take the ground that you can do as you please with the trim? That is what the Master Car-

2244

penter wants you to do. If you do, you are not going to have any Arbitration Plan very very long.

I grant that affairs, so far as the Arbitration Plan and the trim question are concerned, have not been working very satisfactorily. And I will grant that the Master Carpenters have much ground for the stand they have taken. As long as the Carpenters can put up trim, why should they stop buying it?

And there is just as much ground for com-

plaint on the other side of the house. We are making no progress, and the Arbitration Plan has been a handicap to bring about union conditions as in other trades, as long as it is interpreted as it has been. If you are going to countenance the men who are not contractors in any sense of the word, then we are up against it.

This case will be settled, on its merits, by the Executive Committee, but my Association thinks the time has come to call a halt to this kind of business and they believe, and I be- 2246
lieve that union conditions of trim, satisfactory to the Master Carpenters and to the Joint District Council can be secured. It will take time. If the District Council, on the one hand, think they are going to revolutionize this thing immediately, they are terribly mistaken; it cannot be done. If the Master Carpenters want to see the open shop proposition in trim, it will be the worst thing that ever happened to them.

But the two parties are not resorting to war measures. They are going to try and get 2247
something out of this thing; there never was a better case to start the ball arolling before you. The builder who is buying this trim,—whether Cohen & Steinick have the contract or not,—they are the men who wrote me for the estimate; I never got any word from Cohen & Steinick; it is only a subterfuge of the Benson Realty Co. to get the trim erected under the Arbitration Plan.

I am not going to lay out a plan whereby you can regulate the manufacture of trim, but

2248 John S. Henry for Complainant—Direct.

I have been hoping that between the Master Carpenters and the Brotherhood there might be some way out of this thing. I am ready to enter into negotiations to try and find a way out of it, and I cannot believe that this Committee will allow for a minute the non-unionizing, or the open shop proposition on trim. If you want to send the building trades back to anarchy, why do that, but not if you want to preserve peace by a line of policy that will take care of the rights of everybody.

2249 *Mr. Harding—*

No I am going to ask the same privilege that has been given to Mr. O'Neill, to present the Master Carpenters' side of the question, and then allow you to draw your own deductions.

In the first place, we will admit that there was a condition of chaos in the building trades when the Employers' Ass'n was organized and this Arbitration Plan formed, but at that time we were buying our trim wherever it suited us best and we worked and erected it. We will admit that we did have strikes and warfare.

2250 When this plan was organized Mr. O'Neill was forced into an arbitration by this Board to know whether or not he had a right to employ the men in his shop that he had an agreement with when he came in here. The Carpenters had no agreement with the Brotherhood; in their shops they were working 8 hours instead of 9, and when it came to making an agreement with the Brotherhood, the Master Carpenters admitted that the question should be settled whether the Plan covered the manu-

2251

facture of trim, but it was always switched off in some other way, and finally they made an agreement with the Brotherhood practically to use only union trim, but they required the Brotherhood to handle only union trim for the independent employers.

When the Master Carpenters found that the Union was indiscriminately erecting this trim all over the city, they complained and were told by the Union that they could not control their men.

2252

And what happened in Mr. O'Neill's own firm, doing a million and a half dollars worth of business a year and manufacturing only $150,000. worth, and buying the rest from non-union firms——

Mr. O'Neill—

In the first place my firm never sold a million and a half worth of trim; and we have bought a good deal of trim and a good deal of it in union shops, and in the last year all of it in union shops.

2253

Mr. Harding—

But during the very time we had this agreement with the Brotherhood these men were buying non-union trim and admitted it and Mr. O'Neill made the statement to me that they did over a million dollars worth of business in a year. This all happened while we had an agreement. And when the Brotherhood laid down this way, foolishly the trade did enter into a proposition whereby an unfair list was recognized.

2254 John S. Henry for Complainant—Direct.

When our agreement expired, we entered into negotiations to get another one, but we say to you that we cannot agree with the Brotherhood and we want this trim proposition arbitrated,—whether or not trim is covered by the Arbitration Plan, and we will abide by the decision rendered. My Association instructed me to tell you to-night that we want this question arbitrated and, if we get a decision adverse to us, if we get a decision that it is under the Plan, it is the best thing
2255 that can happen; for, if a Special Board decides that only union trim can be handled under this Plan, our course will be a different one. We will come here with complaints and show you, and we can show you to-night, if you will accept our statements, that this very firm of Rabbe furnished trim for a job at 177th St. & St. Nicholas Ave. just completed, and there was no strike, because our members were not erecting it, and at Prospect Ave. & 171st St. at the present time there are 4 houses being erected with this Rabbe trim, that Mr. O'Neill says that not one of our members would be
2256 found dead with, and they are being erected by the Brotherhood.

They are erecting this Rabbe trim on other buildings, at the very time they ask a decision against one of our members for doing it, as they claim. Is that a fair state of affairs?

Let us arbitrate this question. If the Plan means anything, it means arbitration; let us decide once for all whether the Brotherhood can handle non-union trim, or whether we can purchase non-union trim and we demand of

you in fairness and justice to loyal members of this Plan that you will render no decision until you direct this question to a Special Board.

Mr. Neal—

At the present time there is a job on 184th St. that is on strike against Rabbe trim. And on one of the jobs Mr. Harding has cited the men were taken out, but after the contractor told us that he would not violate our laws in the future, he was allowed to finish the job. 2258

At the formation of the Plan the Brotherhood were taken in with some 3,500 men actually engaged in the manufacture of trim in this city. You also took in an Association that was exclusively engaged in the manufacture of trim.

We tried to solve this problem by means of the list with which the Executive Committee are familiar—the unfair list—and it worked so successfully that the Master Carpenters kicked it over; the organization was making too much progress. They filed 13 complaints against us, and on only one of them was the charge sustained, and the next day the business agent had the job on strike. 2259

Just such broad statements were made then as made here to-night. They will dig up a little job here and there that has happened to get away from us, or where we have got an independent employer, but they do not go over our books and see where we have had thousands of dollars strike pay. When this thing was working smoothly, they kicked it over. What

2260 they want is the open shop in the trim trade.

The District Council claim that when you took in the Brotherhood here, you took in the 3,500 men in the trim business and you took the Manufacturing Woodworkers' Ass'n.

This is not a matter for arbitration and we will not stand for a matter of this kind to be arbitrated where it means the open shop for half our craft.

Mr. Harding—

2261 If all they say is true, what have they to fear from arbitration? If they can establish the fact that the trim proposition was not an open shop question, we will abide by the decision, but they are afraid to have the true light shed upon the facts. I say that, until they are ready to do it, you have to leave the Master Carpenters alone in the transaction of their business.

The only agreement that was in existence between the Brotherhood and any part of the B. T. E. Ass'n when the Arbitration Board was formed was an agreement between the

2262 Interior Decorators and the Carpenters which controlled the shops only and didn't prevent the Decorators letting any part of their work.

We will admit right now that one of our shops can not go non-union without violating the Plan; we will also admit that every shop since the formation of the Plan, that the Brotherhood has succeeded in organizing, under the Plan, cannot go back non-union, but the Plan itself does not debar us from purchasing the product of a non-union concern.

 2263

Mr. O'Neill—

I would like to ask Mr. Harding, are the Master Carpenters out for the open shop, or that this condition right itself so we can do business under a union basis?

Mr. Harding—

We want an agreement with the District Council. We want the trim condition the same as it was when we came into the Plan.

Mr. O'Neill— 2264

That is that every shop that is not union should remain as it is and the Carpenters be compelled to erect that material. If that is what they want, we want to know it quick. There is nothing to be gained by this Committee keeping the question open as they have for the last year and a half. Let us know where we are at. I don't believe a single manufacturer in my association made a dollar last year, because we have been up against this sort of thing we cannot meet that competition. 2265

Chairman—

This complaint has been broadened out so as to embrace several matters before this Board. The history of the trim question before the Executive Committee has been, I think, entirely consistent. For a number of years the Committeee has been operating under the trade agreement existing between the Joint District Council and the Master Car-

penters. After that agreement expired on the 1st of Jan., last year, following the custom of the Committee in like cases in other trades, it took the only reasonable course and that was to deny either party the right to change conditions in the trade, excepting by mutual consent; therefore, on all cases that have come before the Board the Committee has been guided by the best evidence it had in the past, which was the custom of the trade as it existed during the life of the trade agreement
2267 and, acting on that procedure, it has, on a number of occasions, found employers guilty of handling non-union trim and sent such cases to the Employers' Ass'n for such discipline as the Employers' Ass'n should see fit to administer, prefacing its order, however, with the statement that it was sent to the Employers' Ass'n for the purpose of bringing about an adjustment between the two parties. The two parties have been in communication off and on since the agreement expired over a year ago and on Feb. 17th the Master Carpenters have
2268 sent a letter to this Board saying that now they demand an arbitration on the question in dispute.

(The letter was read.)

In other words, having failed to come to an agreement they so notify this Board and demand that such questions as are open between them be sent to arbitration; that is the case before the Committee now.

Mr. Harding—

We don't know, even at the present time,

how many disputed points there are in the agreement. We started with the old agreement as a basis and we changed and agreed on several clauses of the new agreement until we came to the trim proposition, which we deadlocked on. Our Ass'n wished to pass that clause for the time being and take up the remaining portions, but the union would not agree to that. We even suggested making an agreement leaving out the trim question entirely and let that come before this Board and be handled by them, but that they refused to do, so there is nothing for us to do but ask you to remove that obstacle and allow us to go ahead and make an agreement, and the only way is for a Special Board to decide whether the manufacture of trim is covered or not. 2270

Chairman—

It is the Chairman's opinion that the procedure of the Executive Committee should be in the future, as it has been in the past, that they will maintain the conditions of the trade as in the past and will not allow either side to change those conditions until this matter has been settled somehow. Now it is here for the Committee to find a method of settling the disputes which you people cannot settle among yourselves. The Master Carpenters have demanded arbitration; the Committee would like to hear arguments on that subject. 2271

Mr. O'Neill—

The Manufacturing Woodworkers will ob-

ject to the question being arbitrated as to whether or not the trim is a union proposition. They stand on the Plan. If the Plan is not for union trim, then they have no business here, and the Amalgamated Woodworkers have not business here, and I heartily endorse the attitude of the Brotherhood when they say they will not stand for arbitration as to what is union and what non-union in their trade. We are here to do business under union conditions.

2273 The question can be settled if we all work honestly together. I am very sorry to learn that the Carpenters refused to go on with the agreement and leave the trim question out; if they had got everything else settled, they could come to you and say they did agree on everything but the trim proposition.

Mr. Harding—

Mr. O'Neill made the same argument when he was forced to arbitrate his case, but he was compelled to do it and I want to tell you that there is not a dispute, under the Plan,

2274 that should not be arbitrated and settled. The Master Carpenters believe it was strictly a union proposition that, as far as trim was concerned, it was an open shop proposition, but so far as our own shops are concerned, it was union.

Mr. O'Neill—

I was never forced to arbitrate the conditions in my shop, but the question as to whether or not we did right in taking in certain

shops that had been running under the jurisdiction of the Brotherhood. Our rights have never been questioned. 2275

Chairman—

The Executive Committee, in handling the trim cases, cannot, of course, consider merely the Joint District Council's attitude in the matter; it is bound to consider the Master Carpenters. In other words, if the Joint District Council insists, under the old agreement, that the Master Carpenters must not handle anything but fair trim; it is equally plain that the Joint District Council must also be brought to the same line, and not be allowed to handle anything but fair trim; the cases are alike from either side of the house, under the old agreement. 2276

Mr. Brown—

What you have said just hits the nail on the head, and I would listen with more appreciation to Mr. O'Neill's remarks, if I did not happen to have in my pocket now a list of 20 or more cases where non-union trim is being put up by union men. 2277

Chairman—

This Committee has had a lot of complaints against the Master Carpenters for unfair trim, but we have never had any complaint from the Master Carpenters against the District Council for putting it up.

Mr. Harding—

We are not going to give all our evidence

2278 John S. Henry for Complainant—Direct.

in advance; we will give that for the umpire.

Mr. O'Neill—

There is no question that the attitude of these gentlemen is absolutely right on that proposition. There is no way you can bring this thing around until the Carpenters say: "There are certain people that we regard as unfair and their product will not be erected in New York." You can get any number of cases in New York where the Carpenters are
2279 erecting this trim; and things are going to get worse every day, and it is so bad now that you are opening the door to the speculative builder to do his business with the open shop and make these men put it up; and there is no justice in the Brotherhood asking the Master Carpenters to sign an agreement that they won't buy anything but union trim, when they will put it up themselves for outsiders. If they are honest in their desire for union trim, they must make up their minds that when they say so, not a stick of that trim shall be erected in New York, and until they do, we
2280 cannot do business.

Mr. Crimmins—

The plan contains a union clause and the old agreement had a clause providing for none but union trim. We tried having the unfair list and when we were making a good deal of progress, the Master Carpenters wanted us to do away with it; we were living up to it and there was never a charge brought here that we were not discriminating against those

2281

firms on the unfair list. When the matter was working in first-class order, the Master Carpenters tried to do away with the unfair list. Now they want to do away with the union clause in the agreement. If the Master Carpenters had lived up to it, we would not be here to-night. We organized shops almost at wholesale.

All this trouble is due to the fact that they tried to get rid of the unfair list. I have an idea why it was done. Certain members of the Master Carpenters got interested in country firms and they found some of them were on the unfair list and we were striking the independents against them, and that is now this whole thing started. Now they want the open shop proposition.

2282

Mr. Harding—

We demand that the only logical way for the trim proposition to be settled is to send it to arbitration.

Mr. Storey—

I would like to have the putting up of this trim stopped."

2283

Q91. I notice that in this extract from the minutes which I have offered the name of Neal appears again. Is that the same Mr. Neal concerning whom you have testified? A. I believe it is, yes.

Q92. And the name Crimmins also appeared? A. That is the same Mr. Crimmins, yes.

Q93. During your connection with this Arbitration Board there was only one Mr. Crimmins who

2284

appeared? A. To the best of my knowledge.

Q93. And one Mr. Neal? A. I think so.

Q94. And one Mr. Storey? A. Yes.

Mr. Merritt—

I will ask you to have written into the record the extract from the minutes of April 14, 1909, appearing in Exhibit 14, beginning with the words "Application of Carpenters" and terminating with the words "Unanimously carried."

2285

"Application of Carpenters for decision that plan is not maintained on job on Livingston St., near Hoyt St., Brooklyn.

Appearances: Mr. O'Grady for the Carpenters.

The application was read.

Mr. O'Grady—

The job is on strike now, but we have got some men in there and the delegate will not pull the men on account of there being an arbitration boss on the job. We have had the

2286

men there for a week and I would like to have them removed as it will help me out on the Public library. It is against Martin, who has the fixtures on the Public Library,—an unfair boss. On account of the Western Electric people being members of the plan, the delegate will not take out the men.

Motion: That the conditions established by the Joint Arbitration Plan are declared not maintained on the job in question.

Unanimously carried."

John S. Henry for Complainant—Direct. 2287

I will ask to have copied into the record extract from minutes of April 28, 1909, covering the entire page 40.

"Standard Carpenter Works vs. Carpenters Joint District Council and delegate Blumenberg on job 143rd St. & St. Nicholas Ave.

Appearances:

Mr. Messer,
Mr. Warm,
Mr. Blumenberg.

The Complaint was read. 2288

Mr. Messer—

I have a job at 141st St. & Lenox Ave., and this morning the business agent came around and pulled our men and said it was for using unfair trim, and I put in my complaint here.

Mr. Blumenberg—

This owner has been notified that Raabe trim is unfair and he led us to believe that the Empire had it all the time; when I found that Rabbe had it, I took the men away from them. 2289

Mr. Crimmins—

When an owner or general contractor violates the trade agreement, we claim the right to remove our men. We must have some redress in a case like that. I don't think this Committee would give us permisson to lift the Plan. There is no denying the fact that the trade agreement is being violated, and the Plan itself is being violated; the contract was given to a non-union concern.

Chairman—

You mean the trim was brought from a non-union concern?

Mr. Crimmins—

Yes, sir; that is not the only job we have against these people; we have 6 or 7 jobs on strike; we lost 3 of them, let them go scab.

We want the Committee to decide one way or the other if the Carpenters' Organization cannot remove their men when the trade agreement is being violated.

Mr. Harding—

I would like to ask what trade agreement he refers to. There is none in existence.

Mr. Warm—

When we got the job we didn't know there would be unfair trim used. We got the job about 3 months ago and the owners told us the Empire would furnish the trim. Saturday we were told the trim would be there Monday; we didn't know anything about this until this morning,—whose trim it was. If we had known it was unfair, we would not have touched the job."

Chairman—

Who bought it from Raabe?

Mr. Warm—

The owner; we are putting it up, but the owner is furnishing it.

 2293

Motion: That the case be laid on the table. Motion was carried."

Q95. I will ask you to just examine that extract and tell me whether or not Mr. Blumenberg therein mentioned was Henry W. Blumenberg of the Carpenters? A. I believe so.

Mr. Merrit—

I will ask to have written into the record extract from minutes of May 14, 1909, beginning on Page 70 with the words, Carpenters vs. Phillips & Julien," and continuing down to the end of Page 71. 2294

"Carpenters vs. Phillips & Julien, on Alwyn Court Bldg., 58th St. & 7th Ave.

Appearances: Mr. Storey for the Carpenters, Mr. Julien, for the firm.

The complaint was read and also a letter from Phillips & Julien.

Mr. Storey—

The organization has been keeping a close eye on the trim matter and it was brought to our attention that Phillips & Julien had given part of the trim for the job to Jackson's shop, and they have been on the unfair list for the past two and a half years. We looked up the case and found there was a complaint by the woodworkers and found the answer in which Phillips & Julien admit giving the work to Jackson's shop. 2295

Mr. Julien—

We simply take the ground, the same as the

2296

Carpenters' Ass'n, that, there being no agreement as to trim, we can buy it where we please.

Mr. Crimmins—

As long as the facts of the case are admitted, I don't see that any more need be said.

Mr. Walsh—

Who erects the trim?

Mr. Julien—

2297

We erect the trim with union labor; we never use anything else.

Mr. Murphy—

Do you think you can compel the union carpenters to put up this trim, through the efforts of this board?

Mr. Julien—

All I can say is, we have always used union labor.

Mr. Storey—

2298

The trim has not got here yet; it is not on the job, but we notified them we would not handle it.

Mr. Julien—

Before securing this contract I endeavored by every means possible to get union shops to do this work and about one-third of the trim is being done in union shops right now, but because of crowded conditions, it was impossible to get the trim done in time, except by going to a non-union shop; I can substantiate that.

John S. Henry for Complainant—Direct. 2299

Mr. Storey—

There were several shops that were practically idle and would have taken this work, if there had been any chance of their getting it.

Mr. Crimmins—

The conditions were laid down by the Hedden Co., so hard that no union shop could take it. The Hedden Co. was convicted by this committee in the early stages of this job for violating the same conditions, on the win- 2300
dow frames, and they are responsible for this case.

Mr. Julien—

I think the question as to whether there is an agreement between the Carpenters Joint District Council and the Employers' Ass'n on the question of trim should be settled, I think, before we take up details of this kind.

Motion: That the case be dismissed. Motion was not carried."

Mr. Merrit— 2301

I also ask to have copied extract from minutes of June 2, 1909, beginning on Page 95 with the words, "Master Carpenters' Ass'n," and continuing to the words, "Unanimously carried," in the middle of Page 97.

"Master Carpenters' Ass'n on behalf of Cohen & Gruskin, vs. Carpenters J. D. Council on job at Walton Ave. & 165th St.

Appearances: Mr. Harding for the Master

2302 John S. Henry for Complainant—Direct.

Carpenters, Mr. Cohen, Mr. Dalton for the Carpenters J. D. Council.

The Complaint was read.

Mr. Cohen—

I know nothing about it, except that my men are out.

Mr. McKirdy—

When did Cohen & Gruskin become members of the Building Trades Employers' Ass'n?

2303 *Chairman—*

I can answer that; nearly a month ago.

Mr. McKirdy—

I think you will find this case is similar to the Duffy & Collin case.

Mr. Dalton—

Our men are out on account of non-union steam fitters. I never knew the plan was on that job; in fact, I don't know yet. Our men have been out before; this last time they have been out since Saturday; about April 21st they were out for the same cause; the Roofers and the Cornice Makers are out, too. The roof is all ready; there is not a particle of roofing done yet; the floors and partitions are not done yet.

2304

Chairman—

Were the plumbers taken off the job?

Mr. Cohen—

No, the plumbers are working; our men are the only ones removed from the job.

2305

Mr. Dalton—

I have witnesses here to prove that there are 2 trades besides the Carpenters held off that job.

Chairman—

Have they ever been on the job?

Mr. Dalton—

No, and never will be, but it is all ready for them. I know the carpenters were on and were taken off on April 21st for the first time and there was nobody on the job then but the plumbers and the carpenters; after a little while I decided to let the men go back for a while until they were ready to make a pull.

2306

Mr. Walsh—

The job was struck before they became members of the Arbitration Plan?

Mr. Dalton—

I have never been notified that they were members.

Mr. Harding—

When these firms were taken into the Master Carpenters' Ass'n not one of them had a strike on their hands.

2307

Chairman—

There were 25 concerns taken in.

Mr. Walsh—

Were they all investigated?

Mr. Harding—

Yes, and not one had a strike against them.

2308 *Mr. Walsh—*

I know that we had a strike against this man, and that the Capenter had his men out.

Mr. Dalton—

It was a case of assisting the steam fitter; I let the men go back finally until the other trades were ready to go to work there, but the other trades are held off; that is the truth.

Chairman—

2309 These people being members here, if Mr. Richardson has a complaint, he must file, it here, but he cannot pull against members of this Association until the Plan is removed by this Committee.

Mr. Dalton—

Neither Mr. Richardson nor I knew they were members. If the Carpenters were held off that job a day or two the whole thing would be settled. If the Carpenter is allowed to go back, it will start all over again, and the Plan would have to be removed.

2310 *Chairman—*

That is a fact; if the Plumber is doing steam fitting, within 24 hours this committee would have to meet and remove the Plan. The best thing you can do, Mr. Cohen, is to tell the owner that he has to straighten out that difficulty, as far as the steamfitting is concerned.

Mr. Harding—

I understand he is a steam fitter and is a member of the Steam Fitters' Ass'n in Mt. Vernon, I don't object to the Plan being re-

2311

moved, only I think it should be done in the regular way.

Chairman—

Mr. Dalton, you have no complaint against this employer, have you?

Mr. Dalton—

No sir, none whatever.

Motion: That the Committee finds the conditions established by the Arbitration Plan are not maintained on the job at Walton Ave. & 165th St.

2312

Unanimously carried."

Q96. I notice in this last extract, Mr. Henry, the name of Mr. Dalton. Do you know whether that was Mr. Thomas Dalton of the Carpenters' Union?

A. No, I do not know Mr. Dalton, at all. I guess the only time I ever saw him was that once.

Q97. I notice the name of Walsh appears here in every instance. Do you know who Mr. Walsh was? A. That Walsh, I think, was a steam-fitter.

Mr. Merritt—

2313

I also wish copied an extract from minutes of June 9, 1909, beginning with the words, "Mr. Neal," preceding the last paragraph on Page 114, and copying to the middle of Page 115, to the words, "Mr. Harding."

Mr. Neal—

They are these: There is an element of employers—I don't say all these gentlemen are of that calibre,—in the upper end of the city that we have had a great deal of difficulty

2314 with, and it is an unfortunate thing that there is an element that gets into our organization that we have to watch constantly, and these people were in position to get work where our legitimate contractors found it impossible to get work, and, on investigation, we found that the reason why they could underbid other contractors was because there was a system of rebates; private deals were made with men as individuals and less than the prevailing rate was paid them and it kept our
2315 business agents on the alert all the time, and there have been cases where our business agents would insist on having men of their own selection on the job. That was absolutely essential, in order to find out whether union conditions prevailed or not; if they found a man working for less than the prevailing rate, it would be reported to the business agent. We kept up that warfare and while it was on these people sought the refuge of the Employers' Ass'n. We have made rapid strides in wiping this business out and, having done so, and in particular in cleaning up the un-
2316 fair trim proposition, we feel that by the action of the Master Carpenters themselves in sanctioning these people and giving them support here, it will give them another opportunity to go ahead with a non-union product under the protection of this Plan as heretofore. We feel that that is the ultimate object they seek to obtain. I believe that at the present time the mateairl being erected is largely the product of the Woodworkers' Ass'n and that speaks well for the action of

the Brotherhood of Carpenters, but we feel it is going the other was as soon as these people are seated here. We feel that this is but another move to assist the Master Carpenters in establishing the open shop in the trim trade, because every case we bring here is deadlocked or laid on the table, or the case dismissed, and our organization compelled to go ahead and erect the non-union product. It is a matter of national importance and a matter on which our organization feels very deeply and to such an extent that we are going to have 2318 our general officers on here and confer with them.

Some of these gentlemen here I know would play fair but I know that some of them would not."

Q98. Now, I ask you, Mr. Henry, whether in each and every instance, to the best of your recollection, these men said the things which they are there recorded as saying?

Mr. Beattie: I object as incompetent, irrelevant and immaterial, and not within the knowledge of the witness on his own evidence. 2319

A. To the best of my knowledge. The typewriter took them; I did not take them.

Q99. Well, the minutes were correct to the best of your recollection at the time that they were submitted to you within several days after the meeting in each instance? A. Yes sir.

Cross-examination by Mr. Beattie—

XQ100. Were you present at a meeting of the

Executive Committee of the Central Arbitration Board held on May 10th, 1909? A. Yes sir.

XQ101. How do you know? A. Well the record, I suppose, shows that.

XQ102. What is there on that record to show that you were present? A. There is nothing there to show; no, but I believe I was there.

XQ103. But you might not have been there? A. Well, I could not say. I should have been recorded here.

XQ104. You might not have been present at that
2321 meeting? A. Might not, because that was a special meeting.

XQ105. And then, wherever there have been special meetings, it must have been that you were not present? A. Yes; my name would be there as a rule, I think.

XQ106. If you were present, your name would be there? A. Yes.

XQ107. Then you don't mean to say that you were present at all the meetings that are referred to in these books, Exhibits 13, 14 and 15? A. Meetings of the Executive Board?

XQ107a. Well, that one I just referred to was a
2322 meeting of the General Executive Board? A. It was a special meeting. I say I might not have been there.

XQ108. I am asking you generally, referring to these three books, 13, 14 and 15? A. I was generally there.

XQ109. But there are some you might not have been at? A. I would not be positive about that. I won't be sure.

XQ110. Do you know whether you were present at a meeting of May 19, 1909, of the Executive

Board? A. I think so, although it is not recorded here.

XQ111. It might have been that you were not present there? A. It should be recorded.

XQ112. And it may have been that you were not present at that meeting? A. As I say, it should have been recorded. I think I was at most of the meetings.

XQ113. But you are not sure of it? A. No, I could not swear to that because it is not recorded.

Mr. Beattie: I move that the extract from the minutes of May 19, 1909, which has been read into the record, be stricken out. 2324

Mr. Mayer: Same motion.

XQ114. Do you know whether you were present at the meeting of the Executive Committee of the General Arbitration Board of February 24, 1909? A. Yes, I think I was at that meeting.

XQ115. Is there anything to indicate on the record which I have just shown you that you were there? A. It should have been. I had only been there a month or so.

2325

XQ116. But it is possible that you were not at that meeting? A. I say I think I was at that meeting.

XQ117. When you attended a meeting, did you usually sit through it, or did you go in and out? A. Sometimes I would go in and out after books, and when the stenographer was taking testimony I would not pay much attention.

Mr. Beattie: I ask that the excrept out of the minutes of the meeting of February 24, 1909, be stricken from the record.

2326 John S. Henry for Complainant—Cross.

Mr. Mayer: Same motion.

XQ118. I ask you if you were present at a meeting of the Executive Committee of the General Arbitration Board, purporting to be held on February 18, 1909? A. Yes, I was at that meeting, although it is not recorded, I remember the case.

XQ119. I ask you whether you were present at a meeting of the Executive Committee of the General Arbitration Board of May 19, 1909? A. Yes sir.

2327 XQ120. Is there anything to indicate on the record that you were ther? A. I remember the case.

XQ121. You might have remembered the case without being at the meeting? A. No, sir; I remember that case.

XQ122. Did you sit through the whole meeting? A. Yes sir.

XQ123. Didn't you understand, Mr. Henry, that salary of your position was paid by the employers in the different trades and not by the unions? A. No, I did not understand that.

XQ124. About how many unions were there in the Arbitration Board when you were there? A. I

2328 think there were thirty.

XQ125. Of different trades? A. Yes sir.

XQ126. Your salary was $2500? A. No sir, $2000.

XQ127. Your predecessor got $2500? A. He got $3000, Mr. Donnelly.

XQ128. Wasn't it raised to $2500? A. No sir.

XQ129. Who gave you a check for the salary? A. I drew the check myself.

XQ130. On the fund deposited? A. Yes, in the bank.

2329

XQ131. And did you deposit moneys creating the fund? A. Yes sir.

XQ132. Where did the moneys come from that created this fund? A. From the employers and employees. From the unions and employers.

XQ133. How was it divided? A. Both sides paid an equal share.

XQ134. That is, the thirty trades paid half and the employers half? A. Yes, sir.

Cross-examination by Mr. Maloney—

2330

XQ135. These records, or alleged records, are not signed? A. No sir.

XQ136. By anyone? A. No sir.

XQ137. How is it possible to tell whether these are original records or notes of proceedings made at the time of meetings? A. Oh, they have to depend upon the stenographer.

XQ138. Do they keep the stenographer's notes? A. No, the stenographer kept the notes.

XQ139. Where is that stenographer now? A. I could not tell you.

XQ140. Is she living? A. Oh yes.

XQ141. Have you seen her lately, in the last year? A. No sir, not since I left the Board. 2331

XQ142. Is she employed there now, do you know? A. No sir.

XQ143. She is a married woman? A. Yes, sir.

XQ144. What is her full name, do you know? A. Claire M. Power, to the best of my knowledge.

XQ145. Do you know where she lived? A. Some where up in the Bronx.

XQ146. And was she the stenographer that typewrote these sheets which have been offered in evi-

2332

dence here or read from? A. Yes, sir; supposedly she did that at home.

XQ147. At her house? A. Yes.

XQ148. Was she a shorthand writer? A. Oh, yes.

XQ149. Where were these proceedings supposed to have taken place? A. At the meeting of the Arbitration Board, 1123 Broadway.

XQ150. Was Mrs. Power there? A. Yes, sir.

XQ151. And she wrote these sheets and brought them back and gave them to you? A. Yes, sir.

2333

XQ152. You did not take part in the proceedings; didn't know anything about them, did you? A. All that I recorded was what disposition was made of the motions.

XQ153. And that you got from her? A. I took that myself.

XQ154. If there was a motion made and they decided it, you made a note of it? A. Yes sir.

XQ155. What did you do with the note you made? A. Notified the parties of the decision rendered.

XQ156. You did not make any record of what you did other than what the stenographer did? A.

2334

The motions are in there.

XQ157. You say that another stenographer put these sheets together? A. Yes, sir.

XQ158. And what was her name? A. Agnes Glen.

XQ159. Do you know where she lives? A. Jersey City. I have got the address somewhere.

XQ160. Is she working up there yet? A. No, there is another person there since January 1, 1910.

XQ161. You do not know where she works now?

2335

A. I understood that she worked in the Times Building, I am not sure.

XQ162. Is she a married woman, too? A. No sir.

Mr. Maloney: I move to strike out Exhibits 13, 14 and 15 as not properly proved and not the best evidence, and incompetent, irrelevant and immaterial and hearsay, and also the evidence of the witness in that connection and that all the extracts therefrom be stricken from the records on the same ground.

2336

Re-direct examination by Mr. Merritt—

RDQ163. Looking at the minutes of February 24, 1909, beginning on Page 188 (the complainants' Exhibit 13)————————look through those minutes and see if you have any recollection of being present at that meeting? A. Yes, I was at that meeting.

RDQ164. Do you recall some of the matter in there? A. Yes sir.

RDQ165. Now, looking particularly at this part here, (indicating) see if that does not come to your mind? A. Yes, that is the same meeting.

2337

RDQ166. You were present then at the meeting of February 24? A. Yes sir.

RDQ167. You are positive of that? A. Yes sir.

RDQ168. Now, looking at the minutes of the meeting of February 10, 1909, I will ask you whether you were present at that meeting? A. Yes, my name is recorded there.

RDQ169. Now, looking at the minutes of the meeting of February 17, 1909, were you present at that meeting? A. Yes, sir; it is recorded there.

2338 John S. Henry for Complainant—Re-direct.

RDQ170. Looking at the minutes for April 14, 1909, I will ask you if you were present at that meeting? A. Yes, I was at that meeting; I remember the case.

RDQ171. Looking at the minutes of April 28, 1909, will you see whether you were not at that meeting? A. Yes, I was; it is so recorded.

RDQ172. Looking at the minutes of the meeting of June 2, 1909, I will ask you whether you were present at that meeting? A. Yes, sir; it is recorded here.

2339 RDQ173. And look at the minutes of June 9, 1909, and tell me whether you were present at that meeting? A. Yes, sir.

Mr. Merritt: I want to have written in evidence the extract from the minutes of February 17, 1909, Page 172, beginning with "Application of Carpenters," and ending with the words, "Unanimously carried."

"Application of Carpenters on job on 74th St., near 4th Ave., Brooklyn.

Appearances: Mr. Erickson, for the Carpenters, Mr. Heinlein, for his Company.

2340 The Complaint was read.

Mr. Erickson—

I cannot add any more to the complaint, there are non-union carpenters on the job; there are 26 houses going up.

sey City *Heinlein—*

XQ160 lidn't know that there were any non-union there 's an on the job, and furthermore, the Plan has

XQ161. iolated, as my men were called out this

morning by the representative of the Stone Setters and I was not notified at all,—the delegate of the Bricklayers; he claims that the bricklayers there are non-union. The Bricklayers are not under my control. I have the stone. There is no general contractor. I haven't put in any complaint yet, for I only heard about it this morning; the stone setter rang up my office and told me that they were called out; I claim that it is a violation of the Plan.

2342

Mr. Erickson—

I am not responsible for what happened this morning.

Motion: That the conditions established by the Arbitration Plan are declared not maintained on the job in question.

Unanimously carried."

RDQ174. I ask you, Mr. Henry, if you were present at that meeting? A. Yes, sir.

RDQ175. You said the name of the stenographer who took these minutes was Claire M. Power? A. Yes sir. 2343

RDQ176. Is that her married name? A. Yes sir.

RDQ177. And you do not know where she is now? A. I do not.

RDQ178. Or anything about her? A. She lived somewhere up in the Bronx. I remember her telephone number was in the Bronx.

RDQ179. You don't know where she is living now? A. I believe she——

2344 Edward J. Maguire for Complainant—Direct.

RDQ180. You don't know where she works? A. She gave it up entirely; so I am informed.

RDQ181. Do you know whether her husband is living? A. Yes.

RDQ182. Do you know what his business is? A. That I could not say; I saw him several times.

RDQ183. Recently? A. No, not within six or seven months. I met her once since I got out of the Arbitration Board.

Subscribed and sworn to before me this day of , 1912.

2345

Adjourned to Tuesday, December 19, 1911, at 10:30 A. M., at the same place, the hearing to be continued on Wednesday, December 20, and Thursday, December 21, ———

———

PAINE vs. NEAL.

Hearing Tuesday, December 19, 1911, at 10:40 A. M., at Room 1622, 25 Broad Street.

Appearances:

Commissioner Shields, Mr. Merritt, Mr. Beattie, Mr. Maloney, Mr. Mayer, Mr. Whittaker.

2346

EDWARD J. MAGUIRE, a witness called on behalf of the Complainants, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Edward J. Maguire.

Q2. And your age? A. Forty-one years.

Q3. You are a builder, are you not, engaged in business in the Borough of Manhattan? A. Yes.

Q4. As a builder, you do not employ men directly to carry on your building operations, but contract that work out to contractors, do you not? A. Yes.

Q5. You are what sometimes is called, whether correctly or not, a speculative builder? A. A speculative builder.

Q6. Now, in the fall of 1910 you were conducting some building operations in Brooklyn, were you not? A. Yes.

Q7. What were they and where? A. On the north side of St. Mark's Avenue west of Kingston Avenue, I was erecting six private dwellings. 2348

Q8. You purchased some of your material for those buildings from the Albro J. Newton Company, did you not? A. Yes.

Q9. Do you remember what materials they were, in a general way? A. All lumber and trim that entered into the construction except doors; lumber and trim.

Q10. You did not get your doors from the Albro J. Newton Company? A. No.

Q11. Do you remember where you got your doors from? A. I don't know the mill I got them from. I got them from an agent in the city. I don't know from what mill they came. He keeps that a secret. 2349

Q12. When was this contract made with the Newton Company? A. Why, in the spring of 1910; I don't remember the date.

Q13. Now, you had some conversation, did you not, with a man representing himself to come from the Carpenters' Union concerning this trim?

Mr. Maloney: Objected to as incompetent, irrelevant and immaterial; hearsay and not identifying the party; no way to meet it for cross-examination.

2350

A. I did.

Q14. What was that man's name? A. Erickson.

Q15. Could you state whether or not it was Henry Erickson? A. Henry Erickson.

Q15a. And about what time did you first see Erickson in this connection? A. September 10, 1910.

Q16. What was the conversation, as you recall it?

2351

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial; not proper, not identifying the party; concerning a matter not in issue here; hearsay, not possibly any part of any conspiracy against these complainants.

Mr. Maloney: Same objection.

Mr. Maloney: I move to strike out the testimony of this witness as in no way bearing on the issues in this case, as appearing to relate to transactions with one Albro J. Newton; incompetent, irrelevant and immaterial, hearsay, and having no bearing on the issues.

2352

A. Oh, the conversation was along general lines connected with the union and other matters. He said incidentally to me that he was fearful that he would have to call off the men from my job. I asked him why. He said that they were handling non-union trim. I don't think he went further than to say that at that time.

Q17. You do not recall him mentioning the name, Newton Company, at that time? A. I do not think he did.

Q18. What was the condition of the building at that time? Had any of this material from the

2353

Newton Compa[illegible]en installed? A. Oh, much of it had been [illegible]. Perhaps forty or forty-five per cent of the trim had been erected. More than that had been erected at that time.

Q19. Did anything further happen at that time? A. No.

Q20. Did you see Erickson again concerning this matter? A. A week later.

Q21. And where was this? A. On a Saturday morning. I saw him at my buildings at St. Mark's Avenue.

2354

Q22. On both of these occasions was it at your building that you had seen him? A. Yes.

Q23. Did you ask him to come? A. No.

Q24. Was he in the building? A. He was in the building on the 17th of September. I cannot recall where my conversation on the 10th was held, whether in the building or on the street. At that time it was on the second floor of the building. I had no knowledge of his presence in the building, and went up on the second floor to look it over, and saw him talking with one of the carpenters in the front room; I bid him good-morning and he stopped his conversation and started toward the head of the stairs near which I was standing, and went down and I followed him. I went down with him, talking with him, commenting about something, perhaps with more levity than anything else, and when we got on to the street, he said: "I have got to call a strike this morning." I asked him why. I want to correct myself; it was before we got on the street; we were coming down the stairs. I asked him why. "Because you are using non-union trim." Perhaps he said, "Because you are using Newton's trim," at that time. Now, when we got

2355

2356 down stairs, I said, "Are there not other people using non-union trim throughout the city, or where is there a job that is using union trim, as you recognize it?" "Well," he said, "you are using Newton's trim, and they are the people that we are at present dealing with." And the conversation ran along those lines. I cannot repeat it all, but when I got out on the sidewalk I said: "Let me understand, Erickson. This job is being struck because I am using Newton's trim?" He said, "Yes." I called my brother-in-law over and said, "What do you
2357 think of that? This man tells me this job is being struck because of Newton's trim. If I was using Cross, Austin & Ireland's or Bossert's, or others, I suppose this job could run on," and he said, "Yes, the job is being struck because you are using Newton's trim, but in time we propose proceeding against these other firms; that is not the question today." Then I went on and told him what I thought of their manner of doing business; that it was the worst thing that they could do if they wanted to encourage the friendship of speculative builders, because we were not antagonizing them at all. We always had a disposition to use union
2358 trim if they could unionize their mills; make it equal to one man as another to handle it, and along those lines I talked with him.

Mr. Maloney: I move to strike out the answer as incompetent, irrelevant and immaterial, and in no way binding upon these defendants, and as not bearing upon the issues in this case.

Q25. Is that all you recall now? A. That is all.

 2359

Q26. State whether or not you told Erickson that you were operating under union conditions?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

A. I don't recall that I said anything of that kind.

Q27. When you referred to Loomis, Cross, Austin & Ireland, and Louis Bossert, did he state anything concerning the order in which they proposed to deal with those companies?

2360

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, and as leading the witness.

Q28. You furnished an affidavit in the Albro J. Newton case, did you not? A. Yes.

Q29. You stated that Erickson said in substance that it was their intention to attack these other mills mentioned, one by one, after they had unionized the Albro J. Newton Company?

Mr. Maloney: A very improper method of examining a witness called on behalf of the complainant, to take an affidavit drawn by complainant's counsel, made by the witness, and read from it and ask him if that is what he said. The witness should be examined independently.

2361

A. Yes.

Q30. I will ask you to look at that affidavit and state to me whether or not that is true.

Mr. Maloney: I object to that method of ex-

amination as highly improper and designed to lead the witness as to affidavits prepared and drawn by counsel.

A. This affidavit is true.

Mr. Maloney: I move to strike out that answer. There is no evidence of an affidavit in this case, and it is highly improper examination.

2363 Q31. What is the best of your recollection as to the conversation on that point? A. Held on the sidewalk on the 17th of September?

Q32. Yes, this conversation that you referred to in that clause which I quoted from your affidavit, that they were going to take them up one by one. I want to know what is the best of your recollection on that point?

Mr. Maloney: Same objection. There is nothing here to indicate that the witness had any recollection. He is being examined on an affidavit which is not in evidence and which
2364 has been drawn up by complainant's counsel.

Mr. Merritt: The witness has been previously asked if that is all he recalled as to the conversation.

A. I asked Erickson if I were using Loomis, Cross, Austin & Ireland and Bossert's trim, would the strike be called on my building. The substance of his reply was, no, that they would proceed with these firms in order, one by one, when they had unionized Newton's mill.

 2365

Q33. Did the carpenters quit work at that time? A. Yes, they did.

Q34. How long after your conversation with Erickson was it that they did quit work? A. Well, within an hour. It was sometime after eleven when I talked with Erickson and the carpenters quit work at twelve o'clock.

Q35. Did these carpenters ever return to work? A. Those that had been knocked off, I think some of them did, I don't know that all of them did, I am not acquainted with the men.

Q36. How long after was it that any carpenters 2366
did return to work in the building? A. Oh, I am not clear as to that. It must have been certainly three weeks.

Q37. Well, you recall that there was an injunction obtained in the case of Albro J. Newton Company, or that you heard that there was one obtained, and I want to ask you whether it was before or after that time that your man returned to work, or about that time?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial. 2367

A. Well, it was about that time, I can't say now whether it was just before or after the injunction issued.

Q38. Do you know whether or not your building operations were being conducted on a union basis at this time?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, wholly improper.

Mr. Beattie: Same objection.

2368

A. I believe so.

Mr. Maloney: I move to strike out his belief, as incompetent evidence.

Q39. Can you state in a general way what the amount of your contract with the Newton concern was?

Mr. Mayer: Obected to, incompetent, irrelevant and immaterial.

Mr. Beattie: Same obection.

2369

A. No.

Q40. Did it amount to $7,000?

Mr. Mayer: Same objection.

A. Oh, yes, nearer $10,000 or $12,000.

Q41. Now, Mr. Maguire, you are a member of the Builders' Association in Brooklyn, are you not? A. Yes.

Q42. What is the title of that association? A. Builders' Association of Brooklyn.

Q43. And how long have you been a member of it?

2370

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Since its organization, I don't remember how long it is.

Q44. Does that mean a number of years past? A. A number of years past.

Q45. You were a member of it in the fall of 1910, when these occurrences took place? A. Yes.

Q46. And had been a member of it for a long

time prior to that time? A. A number of years.

Q47. And you have been a member of it ever since? A. Yes.

Q48. Did you at this time hold any official position in connection with your association?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. No.

Q49. Did you at this time hold any meetings in connection with the officers of said association and certain representatives of the Carpenters' Union? 2372

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Our Arbitration Committee did meet with them.

Q50. And were you present? A. I was.

Q51. Did they meet with them on more than one occasion?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Twice. 2373

Q52. Did those meetings take place after this strike on your buildings? A. They did.

Q53. Where did those meetings take place?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. In Mechanics Bank Building, Montague Street.

Q54. Who do you recall as being present at the first meeting?

2374 Edward J. Maguire for Complainant—Direct.

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. By name?

Q55. Yes. A. Henry Erickson, and a man named Rice, a represenative from the west, they told me.

Q56. A representative of whom?

Mr. Mayer: Incompetent, irrelevant and immaterial, hearsay.

2375 A. The carpenters.

Q57. Do you recall whether or not there were any other representatives of the Carpenters' Union there?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, calling for a conclusion on the part of the witness; hearsay.

A. Yes. Three or four.

Q58. Do you recall their names? A. No.

Q59. Who was there present who was an officer or a member of the Builders' Association, that you

2376 recall?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Why, I can't remember now whether any members of the Arbitration Committees were present. There was a Mr. Rowe present.

Q60. Wasn't Mr. Hilton present? A. Yes, Mr. Hilton, our secretary, was present.

Q61. How long after the calling of your strike was it that this meeting took place? A. Oh, within

 2377

three or four days after the strike order was given.

Q62. Will you tell me, as near as you recall it, what took place at that meeting?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, not in any way connected with the issues in this case, and not binding on any of the defendants, hearsay.

Mr. Maloney: Same objection.

A. Why, there was a general discussion of the question at issue and our committee tried to im- 2378
press upon the committee from the Carpenters' Association how unreasonable and unfair it was to order a strike against any of the members of the Builders' Association because of their use of trim made by any city mill that was supposed to be employing non-union men, because of our friendliness toward them, we had always employed their men as against any others, and in times of trouble, we lent them our aid, and we were disposed to be considered union, and were disposed to be union employers, that there were no mills in the city that we could buy our trim from that they would recognize as union mills. They took from their pocket 2379
a printed pamphlet and read to us a number of mills in Brooklyn and New York that were union, from their viewpoint, and we said to them: "Now, we could not use trim from any of those mills, and you people know it. You know that the quality of work that they turn out would not suit any of us, we have got to have better trim than they can produce." They argued along the lines that these mills could make good trim. We said: "Admit that they could, they could not make the quantities, and

2380 as a matter of fact, the only mills that we can deal with are the larger mills that you propose to unionize and antagonize. Now we are not adverse to your unionizing them; go ahead, unionize them, but don't attack us doing it. When you have got your mills unionized, then it is time to interfere with us if we are not using their trim." And so the conversation went along those lines.

Mr. Beattie: I ask that that be stricken out as incompetent, irrelevant, immaterial, and hearsay.

2381

Q63. Is that the substance of the conversation as near as you recall it? A. Yes. I might add that we said: "Now you are declaring a strike against the A. J. Newton Company," and they said, "Yes," and "That is unfair to the Builders' Association, because some of the Builders' Association members are using Cross, Austin & Ireland trim, some of them are using Loomis, some of them are using Newton's. Now those that are using Newton's are being discriminated against," and they said "Well, that won't last long; as soon as we have unionized Newton's mill, we are going to take up these others in order." This man Rice said, "You understand, we can't attack all these mills at once. We have got to take them one at a time. We would kill ourselves if we took them all at once." That is all.

2382

Q64. Was anything definitely decided at that meeting?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. No.

 2383

Q65. How long after was it that you held another meeting?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. A few days, within a week.

Q66. And do you recall anyone that was present at the second meeting? A. Henry Erickson and Rice I remember particularly, and three or four others, I don't recall their names.

Q67. You mean, three or four others whom you believe to be for the union? 2384

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, and not identifying the parties.

A. Yes, representatives of the Carpenters' Union. They were introduced as representatives of the Carpenters' Union by Erickson or Rice.

Q68. You don't recall the names of the others? A. No.

Q69. Was your Secretary Hilton present? A. Yes, Hilton was present at both meetings.

Q70. And you were present? A. I was. 2385

Q71. What took place at this meeting?

Mr. Mayer: Same objection.

Mr. Beattie: Same objection.

A. We went over the same ground pretty much that we had travelled in the first meeting, and further than that, we discussed the possibility of the Builders' Association taking some action towards sustaining these representatives of the Carpenters' Union in their quarrel with the members, and we

adjourned with the understanding that we would call a meeting of our association and put the question before them and notify their committee, the representative of the carpenters, when we could begin meeting them.

Q72. Is that all you recall now concerning this meeting? A. That is all. I think we adjourned.

Q73. Was anything said at this meeting about the association signing an agreement not to use non-union trim? A. Well, I mean by my answer that we were to submit to our association the ques-
2387 tion as to whether our association would or would not enter into an agreement with the Carpenters' Union to use nothing but union trim.

Q74. Did the representatives of the union ask you to enter into such an agreement? A. It was their proposition.

Q75. Why were these meetings called?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, calling for a conclusion on the part of this witness, having nothing to do with the controversy in the issues here.

Q76. Why were the meetings called? Or possi-
2388 bly you don't know? A. Yes. The fact of a strike having been declared on the jobs of three of the Builders' Association members against Newton's trim, urged these three men to report that fact to the association, and the Arbitration Committee was called to discuss it. This meeting of the Arbitration Committee led to an invitation being sent to the representatives of the Carpenters' Union to meet us, to talk it over.

Q77. You stated that the representatives of your association at this second meeting agreed to call a

meeting of the members of their association, to consider whether or not they would enter into an agreement not to use non-union trim? A. Yes.

Q78. Did the representatives of the union agree to take any action? A. Why, they were simply to await our call.

Q79. You don't recall their agreeing to take any action in connection with the jobs then on strike? A. Why, they said in substance that if our association would agree, why, of course, that would end the strikes, that there would be no more strikes, that they would send our men back. 2390

Cross-examination by Mr. Beattie—

XQ80. Was there any trim of the Paine Lumber Company or the Gould Manufacturing Company, or the Morgan Company, or any other of the complainants involved in this controversy? A. I don't know.

XQ81. Did the names of any of the complainants in this case come up in any of those meetings? A. These names you have just recited?

XQ82. Yes. A. No, not that I can recall now. The names of many mills were mentioned other than the three or four that I have named. 2391

XQ83. You have only named two—Cross, Austin & Ireland and Bossert? A. And Loomis.

XQ84. Three you named? A. I named four.

XQ85. What order were they going to strike in? A. I have no knowledge of that.

XQ86. I thought you said he said they were going to take them in order? A. Yes, in order.

XQ87. Was Newton number one? A. I don't know in what order they had planned to attack the mills. It developed that Newton was the first.

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XQ88. Are you building now? A. Not at present.

XQ89. When did you build last? A. That was the last job.

XQ90. No trouble about getting non-union men to man your job? You could get all the non-union men you wanted, of course? A. I never tried to, I could not tell you haw easy it might be.

XQ91. When did you have a building before this one you speak of, September, 1910? A. A year previous.

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XQ92. Where was that? A. On Pacfiic Street, south side, west of Kingston Avenue.

XQ93. How big a building was that? A. Same character of house.

XQ94. What sort of house? A. Three-story private dwelling.

XQ95. When did you have a building to build before that? A. Previous to the Pacific Street job?

XQ96. Yes. A. Oh, a year previous, perhaps.

XQ97. Well, do you know? A. I can't recall.

XQ98. Have you had any buildings in the last years—say four years—that you can recall, besides these two private houses? A. Not two private

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houses, two distinct jobs of private houses.

XQ99. Well, two distinct jobs of private houses. A. Yes, directly opposite, on Pacific Street, I built, after that I built in Prospect Place near New York Avenue. I can go on and recite all the jobs I did in their order, years back from that. I have an operation about once a year.

XQ100. What trim did you use on those other jobs? A. Newton's.

XQ101. Right along? A. Right along.

Q77. Y

association

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XQ102. Did you try in any way to get non-union men when these men struck? A. No.

XQ103. How many men did you have? A. I don't recall.

XQ104. Did you hire them? A. No.

XQ105. Do you know what you were paying them? A. No.

XQ106. You don't know whether there was any complaint about wages? A. No.

XQ107. You don't know whether they were getting union wages? A. No, not as a fact; hearsay.

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XQ108. You don't know as a fact why they left the job, except the inference from what Erickson said? A. I would consider that knowing, that I knew why they left the job.

XQ109. Well, when you found you had not any men there when they went out, did you just rest on your oars and not try to get any men to finish your building for three weeks? A. Yes.

XQ110. Didn't you know there were at least as many non-union carpenters in Brooklyn as union? A. I have no knowledge of non-union men.

XQ111. Didn't you find out anything of that sort during your building operations? A. No.

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XQ112. Who hired the men for you? A. A man named John Hackman.

XQ113. Did John Hackman try to get men in any way? A. That I don't know.

XQ114. Was he under your instructions? A. Not from any order from me.

XQ115. I thought you just said you did not try for three weeks? A. I said I did not try to get non-union men for three weeks, or any other length of time.

XQ116. Did you try to get union men in that

XQ117. Did you direct Hackman to? A. I have time? A. Not personally.
no recollection of having directed him.

By Mr. Maloney—

XQ118. This work was let out by you? A. Yes, this work was let out by contract.

XQ119. So that you had nothing to do with the men at all? A. Not with the men direct.

XQ120. Did you buy trim yourself? A. I buy
2399 the trim myself.

XQ121. That is, you let out a contract for the work only to a carpenter's boss? A. For the labor, what we call in the trade, a lumper, a lumper.

XQ122. Was this so on all these jobs of yours? A. Yes.

XQ123. What is a lumper? A. A man who performs all the carpenters' labor for a lump sum.

By Mr. Beattie—

XQ124. And has nothing to do with buying any material? A. Not at all.

2400 XQ125. How many men are there in the Brooklyn Builders' Association? A. I don't recall the membership now.

XQ126. Can you approximate it? Could you give us your impression about the membership? A. I would rather not.

XQ127. I would rather you would. A. I would rather not give you my estimate. I can't tell you near enough to satisfy me as to the correct number of members.

Mr. Merritt: The secretary of the associa-